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President's Commission on Organized Crime

Report to the President
and the
Attorney General

AMERICA'S HABIT:
Drug Abuse, Drug Trafficking, and Organized Crime

March 1986

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President's Commission on Organized Crime

Report to the President
and the
Attorney General

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AMERICA'S HABIT:
Drug Abuse, Drug Trafficking, and Organized Crime

1986

PRESIDENT'S COMMISSION ON ORGANIZED CRIME

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Manuel J. Reyes
Honorable Peter W. Rodino, Jr.**
Charles H. Rogovin
Barbara A. Rowan
Frances A. Sclafani
Samuel A. Skinner
Honorable Potter Stewart*
Honorable Strom Thurmond**
Phyllis T. Wunsche

James D. Harmon, Jr.
Executive Director and Chief Counsel

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*Deceased December 7, 1985

** Commissioners Rodino and Thurmond have abstained from approval of the recommendations contained herein.

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PRESIDENT'S COMMISSION ON ORGANIZED CRIME

Suite 700
1425 K Street, NW
Washington, D.C. 20005
202-786-3500

Suite 2-122
26 Federal Plaza
New York, N.Y. 10278
212-264-3400

Chairman:
Honorable Irving R. Kaufman

Executive Director and
Chief Counsel:
James D. Harmon, Jr.

Commissioners:
Jesse A. Brewer, Jr.
Carol Corrigan
Justin J. Dintino
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Honorable Potter Stewart
Honorable Strom Thurmond
Phyllis T. Wunsche

Honorable Ronald Reagan
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

Pursuant to Executive Orders 12435 and 12507, as well as Public Law 98-368, I present the final report of the President's Commission on Organized Crime. In the thirty-two months that have passed since you appointed the Commission and designated me as Chairman, we have carried out your mandate to explore the nature, scope and extent of organized crime in the United States. The task was an arduous one. We held public hearings in different regions of the country and symposia on topics related to organized crime. We also submitted interim reports on money laundering, labor racketeering, and other issues.

Throughout this process, the Commission emphasized several recurring themes. First, organized crime continues to grow and occasionally to thrive despite past efforts to eradicate it. Organized criminal groups change and adapt to new social, economic and legal conditions, maintaining institutional survival even as individual members or leaders are apprehended and incarcerated. Moreover, new organized crime groups are emerging to follow in the footsteps of their more widely publicized predecessors. In light of the persistent presence and changing nature of organized crime, the comprehensive nationwide examination you asked us to undertake--the first of its kind in over thirty years--was clearly necessary. As we present our final report, I would like to express my hope that our work will vindicate the confidence you expressed when you created the Commission.

Portions of our final report will be publicly released throughout the month of March, prior to termination of the Commission on April 1. The section on narcotics trafficking is being presented first to emphasize the profound and unparalleled importance of the problem. As our report makes clear, drug trafficking is the single most serious organized crime problem confronting this country. It is pervasive, affecting all segments of society. In addition to the debilitating effects illegal drugs have on our nation's social and physical well-being, the cultivation, distribution, and sale of these substances provide organized crime with its largest source of income. Moreover, drug trafficking stands apart from all other organized criminal activity in terms of its implications for the national security of many of our allies and neighbors in the international community, and for our own as well.

No attempt to eliminate organized crime from this country can possibly be complete without a concerted nationwide campaign to reduce the demand for narcotics in the United States. Our recommendations for such a campaign, described in greater detail in the report, form a necessary complement to existing efforts to reduce the availability of illicit drugs through such programs as interdiction and source country eradication. Our proposals for a coordinated strategy against drugs are consistent with previous recommendations in our money laundering and labor racketeering reports for formulating a coherent national strategy against organized crime.

The Commission has repeatedly stressed the importance of increasing public awareness as a prerequisite to any attempt to eliminate organized crime. The private sector contributes to the ability of organized crime to flourish, whether through drug purchases, unethical attorneys' exploitation of the criminal justice system to protect criminal cartels, banks' failure to monitor money laundering transactions, or other actions. Although we recommend vigorous governmental efforts against organized crime, we also believe that all citizens have a role to play in destroying the power of criminal organizations.

On behalf of the entire Commission, I am grateful for the personal interest you have shown in our work throughout our tenure. Your efforts to strike at the very heart of organized crime have been unparalleled. The challenge of eliminating organized crime from our society is a great one, but its importance for the future is greater. As the Commission concludes its work, it is my hope that we have made a contribution to meeting this challenge.

Sincerely,

Irving R. Kaufman

Irving R. Kaufman
Chairman

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THE PRESIDENT'S COMMISSION ON ORGANIZED CRIME

The President's Commission on Organized Crime was established by Executive Order 12435 July 28, 1983. The Executive Order directs the Commission to:

- Make a full and complete national and region-by-region analysis of organized crime;
- Define the nature of traditional organized crime as well as emerging organized crime groups, the sources and amounts of organized crime's income, and the uses to which organized crime puts its income;
- Develop in-depth information on the participants in organized crime networks;
- Evaluate Federal laws pertinent to the effort to combat organized crime;
- Advise the President and the Attorney General with respect to its findings and actions which can be undertaken to improve law enforcement efforts directed against organized crime;

- Make recommendations concerning appropriate administrative and legislative improvements and improvements in the administration of justice; and

- Report to the President from time to time as requested, and to submit its final report by March 1, 1986.

The Commission is authorized to issue subpoenas for the testimony of witnesses and the production of information, to issue orders compelling testimony over a claim of the privilege against self-incrimination, and to seek the assistance of the Department of Justice in applying for writs of habeas corpus ad testificandum or judicial orders requiring testimony or the production of information before the Commission. In addition, the Commission may obtain, use, and disclose electronic surveillance data obtained by law enforcement agencies under Title III of the Omnibus Crime Control and Safe Streets Act of 1968, and other information from Federal departments and agencies under the Bank Secrecy Act and the Privacy Act of 1974, as well as from financial institutions under the Right to Financial Privacy Act.

In the discarge of its responsibilities, the Commission has prepared this report on organized crime's role in drug trafficking and drug abuse. Based on the totality of the evidence before it, this Commission has concluded that drug trafficking and abuse together constitute the single most serious organized crime issue confronting this Nation. Therefore, in contrast to the other subjects covered in the remainder of its final report, this topic is treated in a separate volume.

The research and drafting on this report was performed on the Commission's behalf by Chief Investigator Manuel Gonzalez (FBI), Research Assistants Abigail Johnson and Mary Karol, Deputy Counsel Kevin McEnery, Investigator Thomas Sheehan (DEA), and Contract Consultant Susan Mellody, under the supervision of Deputy Executive Director Rodney G. Smith.

CHAPTER I: THE IMPACT OF THE DRUG TRADE

Drug trafficking is the most serious organized crime problem in the world today.[1] The drug trade generates billions of dollars for organized crime each year,[2] imposing incalculable costs on individuals, families, communities, and governments worldwide. But drug trafficking is only part of a broader, unified phenomenon, which also includes the illicit use of drugs. It is drug users who finance organized crime through their drug purchases, and it is they who must accept responsibility for the broad range of costs associated with the drug industry.

---

[1] In this report, the term "drugs" is used to refer to illicit drugs, controlled substance analogs (discussed in Chapter II), and drugs diverted from the licit market for illicit use. Drug abuse, for the purpose of this report, refers to illicit use of drugs. The terms drug abuse and drug use are used interchangeably in the report. Drug trafficking refers to the cultivation, production, processing, transportation, distribution, or sale of drugs, as defined above. *See* Appendix A for a full discussion of this Commission's definition of organized crime.

[2] Estimates of the value of the illicit drug trade vary from $27 billion (Abt Associates, Inc., *Unreported Taxable Income From Selected Illegal Activities* 61 (Sept. 1984) (prepared under contract for the Internal Revenue Service)) to $50-75 billion (confidential analysis performed by several law enforcement agencies and the intelligence community) to $110 billion (House Select Committee on Narcotics Abuse and Control, *Annual Report for the Year 1984*, H.R. Rep. No. 1199, 98th Cong., 2d Sess. 9 (Jan. 3, 1985)).

Drug abuse ruins individual lives, drains billions of dollars each year from American society,[3] and erodes the nation's quality of life. The violence and corruption that are an integral part of organized crime drug trafficking take the lives of American and foreign officials and private citizens,[4] undermine drug control efforts, and threaten entire governments. To the extent that the stability of friendly nations is threatened, particularly in this hemisphere, our own national security is jeopardized.[5] The impact of organized crime and drug trafficking on society thus has far-ranging consequences, from the mental or physical destruction of the individual drug user to questions of national security.

This Commission has found drug trafficking to be the most widespread and lucrative organized crime activity in the United States. According to this Commission's survey of local law enforcement agencies, marijuana, cocaine, and dangerous drug[6] trafficking are the three primary activities of organized crime groups, as defined by local agencies, nationwide.[7] Drug trafficking accounts for almost 38 percent of all organized crime activity across the country[8] and generates an income estimated to be as high as $110 billion.[9]

---

[3] H.J. Harwood, D.M. Napolitans, P.L. Kristiansen, & J.J. Collins, Econonmic Costs to Society of Alcohol and Drug Abuse and Mental Illness: 1980 (prepared under contract with the Alcohol, Drug Abuse, and Mental Health Administration by the Research Triangle Institute, June 1984). For 1983, the costs of drugs to society are estimated at $59.7 billion.

[4] Incidents of such violence, commonplace in the drug trafficking world, reached even to the preparation of this report. Adler Berriman Seal, a drug smuggler turned witness for this Commission (See, e.g., infra at 59; 70-71; 76-80; 342-343; 351, n. 81) and several other government offices, was ambushed and murdered on February 19, 1986, by assailants armed with submachineguns in what the local Federal prosecutor characterized as a "contract" killing. FBI informant killed in ambush, USA Today, February 20, 1986, at 3A.

[5] See discussion infra at 138-155 and 359-365.

A concept fundamental to this report is the dual nature of the drug phenomenon: drug supply and drug demand are mutually dependent aspects of a single global problem. All strategic and tactical evaluations in this report have been arrived at in this context, and it is imperative that the planning undertaken by this government and its allies be performed within the same framework. The gaps that now exist between strategists who seek to reduce supply and planners who want to reduce demand must be closed. The situation confronting us is a crisis both nationally and internationally. Our response can be no less than national and international mobilization. As this report sets out in detail, the menace of drugs is not restricted to a particular

---

[6] Dangerous drugs is a generic term traditionally used to identify a broad range of drugs of abuse.

[7] President's Commission on Organized Crime Survey of Local Law Enforcement Agencies. See Appendix B for more detailed information.

[8] Id.

[9] House Select Committee on Narcotics Abuse and Control, supra note 2, at 9. However, estimates of the value of the illicit drug industry vary considerable, as pointed out earlier. See supra note 2.

segment of society, but is now of a scope and severity that is a threat to our national security and therefore a legitimate national security issue.

The appropriate response must therefore involve our entire society, not just our law enforcement and health professionals. Parents, educators, employers, the legal profession, financial institutions, the military, and the diplomatic and intelligence communities must all recognize that we are in a national emergency.

Military strategists have warned and painful national experience confirmed that a war must not be fought without a clear notion of the victory sought. In this war on drugs - a phrase worn by use but nevertheless the only accurate description of what must be done - this Commission has adopted a definition of victory: the dramatic reduction, if not complete elimination, of drug abuse in this society. The ultimate goal is a distant one, to be sure, requiring patience, determination and vision. No less an objective is acceptable. Short fixes, compromises, and resignation are a breach of faith with ourselves, our children, and generations to come.

Just as we must clearly define victory, so must we identify the enemy. Here again, there is no room for compromise. We must unite against drugs themselves, and anyone who is their ally.

Producers, refiners, smugglers, and sellers, all those we know as "traffickers," are obvious targets. It is our obligation to look further and recognize that those among us - friends, relatives, colleagues, and other "respectable" people - whose small, personal drug purchases at the base of the consumption pyramid are the driving force behind the traffickers' assault on this country. It is the consumer's dollars that come together to finance the organized crime drug trafficking described in this report, and it is thus their responsibility and ours to confront this truth. This means an end to tolerance of drug use at every level of society.

While all drug trafficking, by its nature, requires some degree of organization, it is essential for the purposes of this report to identify the threshold at which the organization inherent in drug trafficking can be distinguished from organized crime drug trafficking. The Commission's definition of organized crime, which sets out the six characteristics of organized crime groups, is helpful in making this distinction. These characteristics are: continuity, structure, defined membership, criminality, violence, and power as its goal. These elements, together with a reliance on the "buffer" that this Commission has found to be an integral part of organized crime, are common to the world's most notorious trafficking organizations.[10]

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[10] See Appendix A for a complete discussion of the Commission's definition of organized crime.

This report examines the organized crime groups that traffic in illicit drugs. To the extent necessary to grasp the dynamics of worldwide drug traffic, it also details the nature of the drugs themselves. It describes the array of enforcement agencies currently in place, analyzes their various strategies and tactics, and presents specific recommendations for more effective antidrug efforts.

In the portion of this report devoted to efforts to reduce the supply of illicit drugs, "Supply Strategies," it is clear that our law enforcement and other government agencies, particularly on the Federal level, are deployed with a degree of determination, imagination, and resource commitment unparalleled in American history. This government must continue to pursue strategies to reduce supply with all possible vigor, for it is the government's obligation to do all within its power to protect its citizens, no matter how formidable the foe. Nevertheless, if the demand for illicit drugs continues at its present voracious level, improvements in the area of reducing supply will continue to be slow, expensive, infrequent, and too often only temporary.

This report places great emphasis on the need for complete national resolve in this area and for that resolve to be translated into fully coordinated governmental action. Compartmentalization and parochialism, which have been far too common in past efforts, must be brought to an end. In this regard, we are at a particularly propitious moment in history. The slow and painful evolution of our strategy has finally achieved a centralized authority for our national effort: the National Drug Enforcement Policy Board. Not just another advisory body, this Board is a true congregation of every component of our national government's anti-drug effort. It provides the means for achieving a thoroughly coordinated national attack on every aspect of drug trafficking and abuse. It is vital that the Policy Board move effectively, thoughtfully and decisively, but it is most urgent that it move. Indecisiveness are signals in themselves, the wrong signals, to drug traffickers, users, concerned parents, health and social planners, and even foreign governments. Perhaps most critically, indecisiveness and delay are the wrong signals to those U.S. governmental agencies that must choose where anti-drug efforts will fall on the list of competing priorities in a time of hardening fiscal austerity. By action, not mere promises, the Policy Board must send the proper message: we are in a fight for our lives, and every agency must arrange its priorities accordingly.

Our strategies to reduce supply will require not only dedication, but patience and objectivity. The war against drugs will not be won until individuals stop using them. Strategies to reduce supply can do no more than hold the line against illegal drugs while public attitudes and private choices change. That is not to say that our enforcement strategies should not be aggressive and persistent. On the contrary, this report makes clear that there is much in this area that is being done and should continue, and much more that might be done. Many of the specific recommendations in this report are devoted to this theme. What is necessary at the outset, however, is an understanding that such efforts must not be judged by an unrealistic standard. As long as this society is willing to provide its enforcement agencies scarcely more than a penny for every dollar our citizens squander on illicit drugs, it has no right and no reason to expect more.

Ultimately, the curse of drug abuse will be broken, but only by a nationwide dedication to persistent and unyielding assaults on both supply and demand. The supply is already under siege by our enforcement, diplomatic, and intelligence communities. Because an end to consumption is our ultimate goal, it is a concerted and direct attack on demand that must be mounted.

Illicit drugs are an attack upon the integrity, character, and health of the individual. Although discussions of drugs are often framed in terms of costs to society and society's responses, the fact is that individuals, not societies, take drugs. It is the individual user who finances all of the violence, corruption, and degradation that this report describes. The powerful, sophisticated, and thoroughly evil organized crime drug trafficking groups described herein are a reflection of nothing more than our self-destructiveness. It is as a result of individual acts of will that such groups came to be and are sustained, and it is by individual acts of will that they will finally be defeated.

CHAPTER II: PORTRAIT OF DRUG PRODUCTION AND USE

COCAINE

Scope of the Problem

Once considered a fashionable drug for the wealthy, cocaine and its deleterious effects are now beginning to be better understood. In the past scientists made a clear distinction between physical and psychological drug dependence, but the health and social consequences of cocaine use have demonstrated that the two courses lead to the same end: cocaine, like other addictive drugs, ruins lives and kills.[1] Widely available across the United States, cocaine is now used by individuals of all socioeconomic groups.[2] The cocaine industry generates an estimated

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[1] According to Dr. Reese T. Jones, "[t]he differences between so-called physical dependence and so-called psychological dependence may be more a matter of semantics and sensitivity of measures than of neurochemistry." R. Jones, The Pharmacology of Cocaine, Cocaine: Pharmacology, Effects, and Treatment of Abuse 34, 48 (NIDA Research Monograph 50, 1984).

[2] Gold, Washton, and Dackis, Cocaine Abuse: Neurochemistry, Phenomenology, and Treatment, Cocaine Use in America: Epidemiologic and Clinical Perspectives 130, 136 (NIDA Research Monograph 61, 1985).

$11 billion in illicit income annually,[3] and it is growing Cocaine production, importation to the United States and consumption have all increased significantly in recent years[4]. See Figures 1, 2 and 4.

The cocaine industry is fueled by the approximately 25 miilion Americans who have tried cocaine, of which five to six million use it at least once per month. Of the regular users, it is estimated that almost half may be considered addicted.[5] Although the total number of users appears to have leveled off in the last few years,[6] cocaine consumption has increased 12 percent between 1983 and 1984, from 50-68 metric tons to 55-76 metric tons.[7] As cocaine consumption has increased, so too have more dangerous forms of use of the drug and the deleterious effects associated with it. Cocaine-related deaths increased 77 percent from 1983 to 1984 and cocaine-related emergency room visits increased 51 percent[8] (See Figure 3). Requests for treatment for cocaine use have increased 600 percent during the past three years.[9] In 18 states, cocaine is reported as the primary drug of abuse for clients in treatment facilities.[10] There is no indication that without a comprehensive effort at reduction of both the supply of and demand for cocaine, the increases in cocaine use or its deleterious medical and social effects will subside in the near future.

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[3] Abt Associates Inc., Unreported Taxable Income from Selected Illegal Activities 61 (Sept. 1984) (prepared under contract for the Internal Revenue Service). The cocaine industry has been valued at as much as $50-70 billion annually. Clayton, Cocaine Use in America: In a Blizzard or Just Being Snowed, Cocaine Use in America: Epidemiologic and Clinical Perspectives 8, 14 (NIDA Research Monograph 61, 1985).

[4] The National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate 1984, at 22-35 (hereinafter cited as 1984 Narcotics Estimate).

[5] The Cocaine Abuse Problem in the U.S.: Special Hearing Before the House Select Comm. on Narcotics Abuse and Control, 99th Cong., 1st Sess. (July 16, 1985)(prepared statement of Dr. Arnold M. Washton)(hereinafter cited as Washton July 16, 1985, testimony).

[6] Kandal, Murphy, and Karus, Cocaine Use in Young Adulthood: Patterns of Use and Psychosocial Correlates, Cocaine Use in America: Epidemiological and Clinical Perspectives 76, 76 (NIDA Research Monograph 61, 1985).

[7] 1984 Narcotics Estimate, *supra* note 4, at 26.

From a law enforcement perspective, the consequences of this tolerance and addiction are the intense, steady and increasing demand for the product, which generates vast revenues for organized crime.

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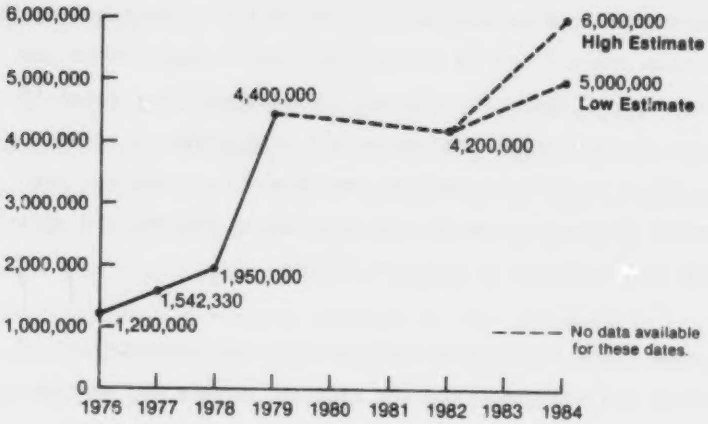
[8] *Id* at 24.

[9] Washton July 16, 1985, testimony, *supra* note 5.

[10] The National Association of State Alcohol and Drug Abuse Directors, Inc. *State Resources and Services Related to Alcohol and Drug Abuse Problems: An Analysis of State Alcohol and Drug Abuse Profile Data-FY 1984*, at 46.

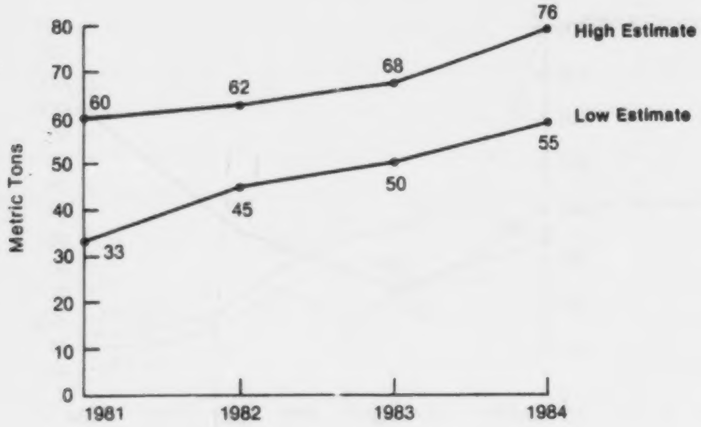
Cocaine Monthly Use, 1976-1984



Data Source: Drug Enforcement Administration.

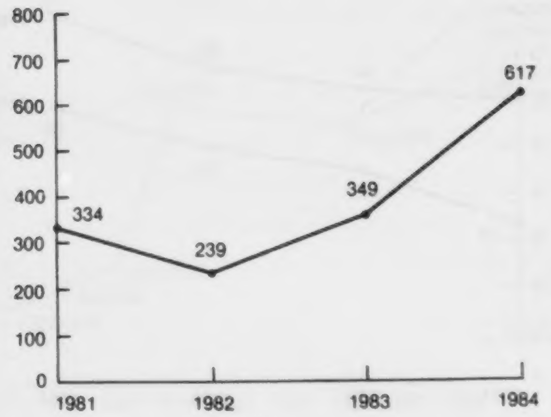
Figure 1

Cocaine Consumption in the United States, 1981-1984

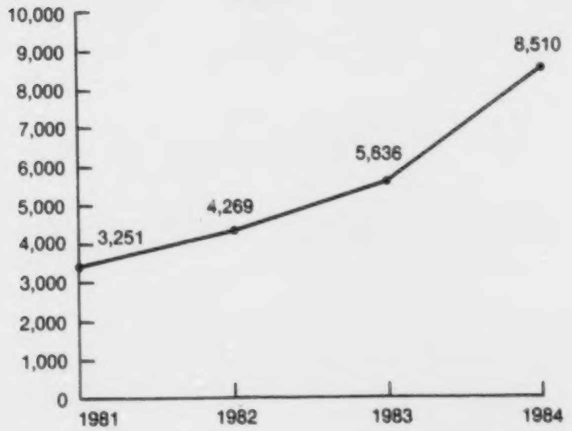


Data Source: *1984 Narcotics Intelligence Estimate.* **National Narcotics Intelligence Consumers Committee.**

Figure 2



Cocaine Related Deaths, 1981-1984

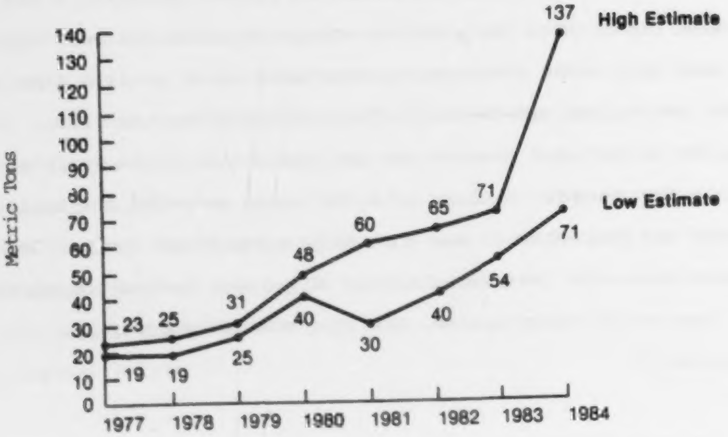


Cocaine Related Emergency Room Visits, 1981-1984

Data Source: *1984 Narcotics Intelligence Estimate.* **National Narcotics Intelligence Consumers Committee.**

Figure 3

Estimate of Illicit Cocaine Entering the United States, 1977-1984



Data Source: *1977-1984 Narcotics Intelligence Estimates*. National Narcotics Intelligence Consumers Committee.

Figure 4

Today's Cocaine User

The cocaine industry is sustained by the appetite of the cocaine user. With the possible exception of marijuana, cocaine is used by a wider demographic cross-section of society than any other controlled substance.[11] Facts demonstrate that the popular belief that cocaine use is restricted to the wealthy is a myth. For example, a study of 6,406 males arrested for serious crimes and processed in New York City's Manhattan Central Booking police office in 1984 reveals that 42 percent tested positively for cocaine in their system, the drug most frequently detected.[12]

The use of cocaine in combination with other drugs appears to be increasing. Fifty-nine percent of the cocaine-related deaths in 1984 involved other drugs, particularly alcohol, heroin and PCP. In addition, more dangerous routes of cocaine administration are now being used. Use of "speedballs," injections of heroin and cocaine, which are often lethal, increased 37 percent from 1983 to 1984.[13] Smoking of coca paste and base, forms of consumption with particularly dangerous health consequences, have also increased.[14] Surveys of cocaine users demonstrated there is no "typical" cocaine user. Results of a 1983 survey of callers to the national 800-COCAINE hotline indicate that the average caller was a 31-year old, white, middle class male with at least some college education and a job with an annual salary exceeding $25,000. Results of the 1985 survey of callers to the hotline reveal that more women, minorities and adolescents called than just two years earlier, and 73 percent of callers in 1985 reported an income of less than $25,000 per year. While almost half of the calls to the hotline in 1983 came from the northeast, calls were fairly evenly geographically distributed in 1985.[15]

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[11] The National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate 1983, at 15 (hereinafter cited as 1983 Narcotics Estimate).

[12] Drug Use and Crime in Arrestees in Manhattan, paper presented by Dr. Eric Wish, 47th Annual Scientific Meeting of the Committee on Problems of Drug Dependence, Baltimore, Maryland, (June 11, 1985).

[13] 1984 Narcotics Estimate, supra note 4, at 23.

Just as it has spread geographically and to different socio-economic groups, cocaine use has increased among certain age groups. Most alarmingly, an increase in adolescent use of cocaine has been reported in the 1984 and 1985 surveys of drug use among high school seniors.[16] The surveys found that current use of cocaine among respondents climbed from 4.9 percent in 1983 to 5.8 percent in 1984, and to 6.7 percent 1985.[17] According to the surveys, annual and lifetime use of cocaine also increased.[18]

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[14] Id. In December 1985 several newspapers reported the use of "crack," coca base sold in small glass vials for $20-30 each, in New York City. "Crack" is extremely potent, producing an almost instant "high," and its use is more likely to cause addiction lung damage, brain seizures, and heart attacks. New Drug Big Risk to Young, USA Today, Dec. 10, 1985 at 1.

[15] N.Y. Senate Comm. on Investigation and Taxation (Dec. 3, 1985) (testimony of Dr. Arnold Washton); Washton July 16, 1985, testimony, *supra* note 5. That calls came from across the country in 1985 appears to reflect an increase in cocaine use in different parts of the United States.

Health Consequences of Cocaine Use

One reason that use of cocaine is so widespread is because of the properties of the drug itself. Cocaine is derived from the leaves of the coca plant (Erythroxylon coca) and has been identified by Dr. Donald Ian MacDonald, administrator of the Alcohol, Drug Abuse and Mental Health Administration, as one of the most powerfully addictive substances known to man.[19]

Cocaine is a stimulant traditionally used to produce euphoria. Other initial effects, however, typically include excitation, increased alertness, insomnia, loss of appetite, increased heart rate, increased respiration and increased blood pressure after even one use.[20] Death can also result from first time use as discussed below. Repeated use of cocaine can cause chronic fatigue, convulsions, depression, irritability, loss of sex drive, memory problems, nasal bleeding, paranoia, severe headaches, increased body temperature and death.[21] These symptoms are neither theoretical nor infrequent. A 1985 survey of 500 callers to the 800-COCAINE hotline found the following consequences of cocaine use:[22]

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[16] 1984 and 1985 Surveys of Drug Use Among High School Seniors. These surveys have been conducted since 1975 by the University of Michigan Institute of Social Research in association with the Department of Health and Human Services.

[17] The Survey defines current use of a drug as one or more uses within a month.

[18] 1984 and 1985 Surveys of Drug Use Among High School Seniors. Annual use, i.e., use of the drug at least once in the past year, increased from 12 percent in 1984 to 13 percent in 1985. Lifetime use, use of a drug at least once during a person's life, increased from 16 percent in 1984 to 17 percent in 1985.

[19] John McCaslin, While-collar Types Rated Top Cocaine Users, Washington Times, Sept. 19, 1985 at 8A.

Self-reported Physical and Psychological Consequences	Percentage of Callers
Depression	83
Irritability	82
Sleep Problems	82
Chronic Fatigue	76
Severe Headaches	60
Nasal Bleeding	58
Memory problems	57
Loss of sex drive	53
Brain seizure	14

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[20] Secretary of Health and Human Services, Report to Congress: Drug Abuse and Drug Abuse Research 108 (1984).

[21] Drug Enforcement Administration, Drugs of Abuse 40 (1985) (hereinafter cited as 1985 Drugs of Abuse)

[22] Washton July 16, 1985, testimony, supra note 5.

Chronic cocaine use causes tolerance, withdrawal symptoms and addiction.[23] Tolerance is evidenced by the fact that chronic cocaine users need to increase their dosage of cocaine to achieve the same effects as lower dosages. As dosage increases, the effect of cocaine use become more pronounced. According to cocaine reseacher Dr. Reese T. Jones,"The existence of a true withdrawal syndrome following cocaine use seems compelling." This syndrome includes "depression, social withdrawal, craving, tremor, muscle pain, eating disturbance, encephalographic changes and changes in sleep patterns."[24]

The addictive nature of cocaine and its toxicity have been documented in both animal studies and human experience. According to the results of a study reported in the July 5, 1985 issue of the Journal of the American Medical Association, 90 percent of rats self-administering cocaine intravenously died within 30 days, while the mortality rate for rats self-administering heroin was only 36 percent. The study found that rats using cocaine lost up to 47 percent of their body weight, ceased grooming themselves and deteriorated in general health. Several rats experienced seizures, but immediately self-administered more cocaine after the cessation of convulsions. The study concludes that in regard to human cocaine use:

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[23] Grabowski, Cocaine 1984: Introduction and Overview, Cocaine: Pharmacology, Effects, and Treatment of Abuse 1, 3 (NIDA Research Monograph 50, 1984).

[24] R. Jones, supra note 1, at 47.

> As the intake of cocaine increases and the concentration of this compound becomes greater (through the availability of higher-purity drugs, by IV injections or by 'free-basing') the number of fatalities associated with cocaine abuse is likely to increase.[25]

Hundreds of fatalities each year are associated with cocaine use. According to Dr. Mark Gold, director of research at Fair Oaks Hospital in New Jersey: "We have no way of predicting who'll die from the drug and who won't. It could be a regular user or it could be a first-time user."[26] Although overdose is the primary cause of cocaine deaths, death can also result after a regular cocaine user takes the same amount of the drug that he usually takes. This phenomenon is known as "kindling" and is not well understood by scientists. According to Miami's Deputy Chief Medical Examiner Dr. Charles Wetli, "What was a safe dose one day becomes a fatal dose the next."[27]

The precise cause of cocaine-related deaths, regardless of dosage, include respiratory failure, cerebral hemmorhage, cardiac arrest or seizures. Because cocaine increases blood pressure and heart rate, individuals with cardiovascular problems are at particular risk. Cocaine's tendency to induce convulsions also creates special risks for epileptics. Death by cocaine is often preceded by anxiety, hallucinations, high body temperature and seizures.[28]

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[25] Bozarth, Toxicity Associated with Long-term Intravenous Heroin and Cocaine Self-Administration in the Rat, Journal of the American Medical Association, 81, 83 (July 5, 1985).

[26] Quoted in Gina Maranto, Coke: The Random Killer, Discover 16, 19 (March 1985).

[27] Hearing IV: Organized Crime and Cocaine Trafficking, Before the President's Commission on Organized Crime 532 (Nov. 1984) (Statement of Dr. Charles Wetli, Deputy Chief Medical Examiner, Dade County, Florida)(hereinafter cited as November 1984 Commission Hearing on Cocaine).

One common myth about cocaine is that addiction and death cannot result from intranasal use, or "snorting," which is the most common route of administration. While cocaine deaths are usually associated with intravenous use, coroners have documented cases of death from intranasal use of cocaine.[29] One particular danger associated with intravenous use of cocaine, or any drug, is infection. Hepatitis and Acquired Immune Deficiency Syndrome (AIDS) have both been associated with intravenous drug use.[30]

Cultivation

The cultivation, refinement and trafficking necessary to bring cocaine from the fields of South America to the streets of the United States obviously requires organization. Coca bushes are grown primarily in the South American countries of Peru, Bolvia and Colombia. The plants are first harvested as early as 18 months after planting, and can usually be harvested from three to four times annually for up to 20 years.[31] The cultivation of coca has increased significantly in recent years, primarily as a result of the cultivation of new coca plants and the maturation of previously existing coca plants.[32] Notwithstanding increased law enforcement pressure in Colombia, the tremendous profits associated with cocaine trafficking have encouraged the spread of coca cultivation throughout the region.[33] Recent coca production figures are as follows:

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[28] _Id_ at 532.

[29] _Id_ at 532.

[30] Cohen, _Reinforcement and Rapid Delivery Systems: Understanding Adverse Consequences of Cocaine_, Cocaine Use in America: Epidemiolcgic and Clinical Perspectives 151, 155 (NIDA Research Monograph 61, 1985).

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[31] November 1984 Commission Cocaine Hearing, supra note 27, at 541 (Statement of Johnny Phelps, DEA Special Agent).

[32] 1983 Narcotics Estimate, supra note 11, at 19.

[33] Id. at 19.

Estimated Cocaine Production[34]

		Peru	Bolivia	Colombia	Ecuador	Brazil
1983	Estimated Coca Leaf Yield (MTs*)	30,000- 60,000	25,000- 40,000	12,000- 14,000	--	--
	Maximum Cocaine(HCl)** Capacity (MTs)	60-120	50-80	25-27	--	--
	Total Cocaine (HCl) Production: 135-227 metric tons					
1984	Estimated Coca Leaf Yield (MTs)	50,000- 70,000	42,000- 63,000	12,000- 14,000	1,000	uncerta
	Maximum Cocaine(HCl) Capacity (MTs)	100-140	84-126	24-28	2	uncerta
	Total Cocaine (HCl) Production: 210-296 metric tons					

*(MTs=metric tons) **Cocaine hydrocloride is explained under "Processing," see below.

Processing

In a relatively simple chemical process, coca leaves are converted first to cocaine paste, then base, then cocaine hydrochloride (HCl), the form of coca most commonly abused in this country. The conversion of leaf to paste to base usually occurs near the cultivation site. The dried leaves are first moistened in an alkaline solution and then soaked in kerosene. The kerosene is removed leaving a cocaine precipitate. This in turn is filtered, producing a paste. The paste is dissolved in a solution of sulfuric acid and then potassium permanganate. This

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[34] *1983 Narcotics Estimate*, *supra* note 11 at 25, and *1984 Narcotics Estimate*, *supra* note 4, at 28. The 1984 Narcotics Estimate states that coca cultivation has been reported in Panama and Venezuela. *supra* note 4, at 29.

pages tightly bound

mixture is then filtered, ammonium hydroxide is added and the precipitate that forms is coca base.[35]

Traditionally, base has been smuggled out of Peru and Bolivia by small aircraft or boats to Colombia, where most of the refining from base to HCl takes place. In numerous cocaine laboratories in the jungles of Colombia, coca base is transformed into pure cocaine HCl by adding ether and acetone, and filtering this mixture, which is then dried. To produce one kilo of pure cocaine, approximately 500 kilos of coca leaves are needed.[36]

The pattern of processing and transshipment is somewhat different from that of cultivation. In the area of refining and smuggling cocaine, it is estimated that 75 percent of the drug available in the United States comes from Colombia, 15 percent from Bolivia, 5 percent from Peru and 5 percent from Ecuador, Argentina, Brazil, and Chile.[37] However, these figures are subject to frequent changes because of the mobility of drug traffickers. For example, while most of the conversion to HCl takes place in Colombia, and other South American countries, an increasing number of cocaine laboratories are being seized in the

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[35] See, Frank Monastero, Recommendations for the Regulation of Selected Precursors and Controlled Substance Analogs, (paper prepared for the President's Commission on Organized Crime, October 1985) (Appendix G).

[36] Information provided to the President's Commission on Organized Crime by the Drug Enforcement Administration.

[37] 1984 Narcotics Estimate, supra note 4, at 18.

United States. Six such laboratories were seized here in 1982, 11 in 1983, 21 in 1984 and 25 during the first half of 1985.[38] Reasons for this trend include increased law enforcement in Colombia and the increasing cost of ether and acetone in Colombia. The cost of these chemicals has increased as a result of controls imposed by the Colombian government on their importation and sale and a concerted effort initiated by the U.S. Drug Enforcement Administration to disrupt the supply of chemicals essential in the cocaine refinement process. A 55-gallon drum of ether now costs approximately $7,000 in South America, while the same amount costs only $500 to $600 in the United States.[39] Further, acetone and ether are widely available for commercial purposes in the United States, making control of their illicit use much more difficult than it has been in South America.[40]

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[38] Information provided to the President's Commission on Organized Crime by the Drug Enforcement Administration, (Sept., 1985).

[39] "Right Big" Cocaine Raid Rocks Remote Virginia Town, Washington Post, July 16, 1985.

[40] For a discussion of the regulation of such chemicals as acetone and ether, see infra Chapter 6 and Monastero, supra note 35.

HEROIN[41]

Scope of the Problem

Traditionally viewed as the "hardest drug," heroin's reputation is well-earned.[42] Although there are fewer heroin addicts than users of other illicit drugs, more deaths and emergency room visits are associated with heroin than with any other drug. Heroin's "worst drug" status has also developed because of the crime generally associated with heroin use, a stereotype of the heroin addict as an inner-city street dweller who commits crimes as his sole means of support, the fact that heroin is most often used intravenously, the dramatic addiction and withdrawal symptoms associated with use of the drug, and the relatively quick and generally lethal effects of a heroin overdose.

The Drug Enforcement Administration estimates there were 490,000 heroin addicts and users in 1981,[43] (See Figure 5). It is estimated that thousands more individuals use heroin occasionally, but are not included in this number.[44] While the addict population has remained relatively steady since 1979, indicators of heroin consumption and effects have increased in recent years. (See Figure 6). Annual heroin-related deaths reached 1,046 in 1984, a 31 percent increase from 1983.[45] Emergency room visits involving heroin use increased 55 percent from 1981 to 1984, with 10,901 such visits in 1984 (See Figure 7). This represents a decrease from the 11,028 emergency room visits in 1983.[46] Estimated heroin consumption increased 55 percent from 1981 to 1984, with 5.97 metric tons of heroin consumed in 1984.[47] As a result of increased heroin purity and increased use of the drug in combination with other drugs, the number of heroin addicts and the number of deaths and emergency room visits associated with heroin use should be expected to increase.[48]

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[41] Opium and opium derivates, such as heroin, are known as narcotics. Although the terms narcotics and drugs are often used interchangeably, narcotics are limited to the various alkaloid products of opium, called opiates, including morphine, heroin, codeine, dilaudid, laudanum, and paregoric. The synthetic narcotics are known as opioids and include methadone and meperidine (Demerol). Erich Goode, Drugs in American Society 227 (1984).

[42] John Kaplan, The Hardest Drug: Heroin and Public Policy (1983).

[43] Information supplied to the President's Commission on Organized Crime by the Drug Enforcement Administration (Jan. 1986).

Heroin is thus an extremely valuable commodity for organized crime; in fact, an ounce of pure heroin is approximately ten times more expensive than an ounce of gold.[49] Heroin users provide organized crime with billions of dollars each year: it is

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[44] Kaplan, supra note 42, at 33.

[45] 1984 Narcotics Estimate, supra note 4, at 49.

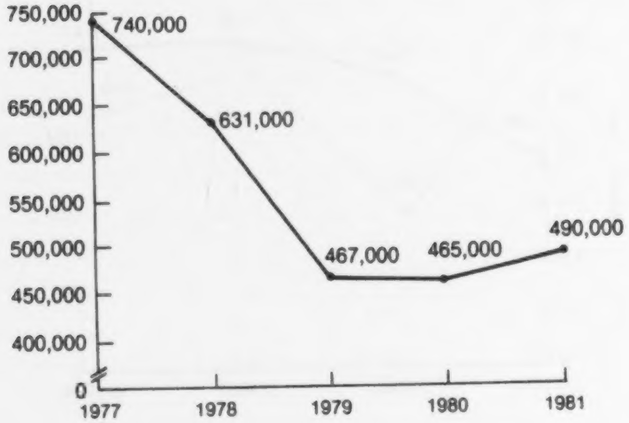
[46] Id.

[47] Id. at 8.

[48] Information provided to the President's Commission on Organized Crime by the Drug Enforcement Administration, (Jan. 1986).

[49] Estimate based on price of 1 gram of pure heroin of $100 (Drug Enforcement Administration) and a price of an ounce of gold of $323.10. Wall Street J., Nov. 12, 1985, at 50.

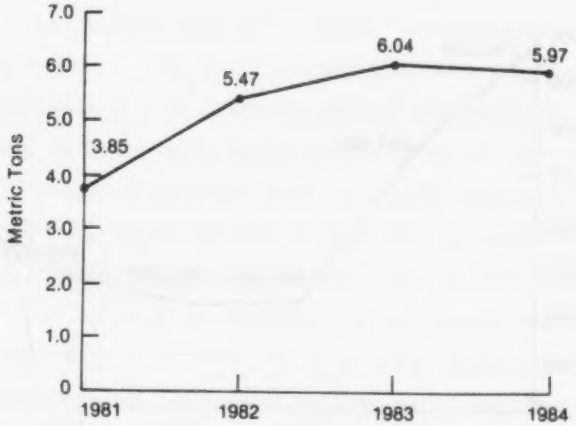
Heroin Addicts/Users, 1977-1981



Data Source: Drug Enforcement Administration.

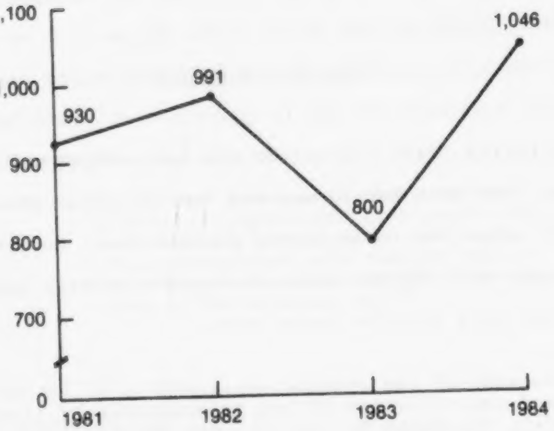
Figure 5

Heroin Consumption in the United States, 1981-1984

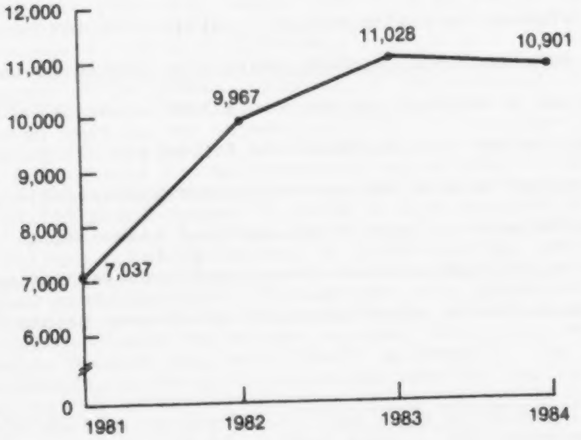


Data Source: *1984 Narcotics Intelligence Estimate.* National Narcotics Intelligence Consumers Committee.

Figure 6



Heroin-Morphine-Related Deaths, 1981-1984



Heroin-Related Emergency Room Visits, 1981-1984

Data Source: *1984 Narcotics Intelligence Estimate*. National Narcotics Intelligence Consumers Committee.

Figure 7

estimated that illegal income from heroin sales in the United States totaled $6.12 billion in 1982.[50]

The Heroin Addict

Historically, data collection and law enforcement experience support the view that heroin use has been an urban phenomenon, confined in large part to minority populations. One recent study of black inner-city heroin users across the country suggests the extent of heroin's grip in those areas:

> Because of the regular availability of heroin and the structure of the relationship of inner-city residents to society, the heroin lifestyle has become firmly established as an alternative lifestyle for Black youngsters.[51]

Such studies typically reveal a portrait of the heroin addict as an unemployed, minority male with little education who commits crime to support his habit: A 1985 study of heroin users in East and Central Harlem found the following: 75 percent were male; 55 percent were black and 44 percent Hispanic; 36 percent were under 30 years of age; 61 percent had less than 11 years of education; and 81 percent were unemployed. The annualized crime rate for these heroin users was 1,075 crimes per person.[52]

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[50] Abt Associates, Inc., *supra* note 3, at 62.

[51] B. Hanson, *Life With Heroin* 176 (1985).

[52] Dr. Bruce Johnson, *Taking Care of Business, The Economics of*

Crimes committed by heroin addicts includes property crime, violent crime and drug offenses.[53]

While regular use of heroin is generally addictive, there appears to be a group of users, known as "chippers," who are able to use heroin occasionally over a long period of time without becoming addicts. In his study of heroin, Stanford University professor John Kaplan maintains:

> It is now clear that there exists a sizable population of nonaddicted but regular heroin users who seem well integrated into society and in many ways indistinguishable from the rest of the population.[54]

Crime by Heroin Abusers, 21 (page proofs 1985).

[53] A 1982 analysis by the Rand Corporation found that "Offenders who have to support $50-a-day heroin addiction or who use both alcohol and barbiturates heavily and frequently are especially likely to be persistent, serious, high-rate criminals." J. Chaiken & M. Chaiken *Varieties of Criminal Behavior, Summary and Policy Implications*, 25-26 (1982). Because of this connection between drug use and crime, Commissioner Eugene H. Methvin recommends routine drug testing for persons arrested for serious criminal offenses. Testimony before this Commission shows that drug-specific urine tests can be conducted for between $2.00 and $5.50 per test. Thus, the United States could have screened every one of the 317,744 people under 21 years of age arrested in 1984 for murder, rape, assault, robbery and burglary for less than three million dollars. Federal Bureau of Investigation, 1984 *Uniform Crime Reports* 178 (Washington: Government Printing Office, 1985). As the Rand study suggests, "Prosecutors and judges should be wary of leaning toward short sentences for offenders convicted of major, violent crimes who appear to have been acting uncharacteristically because they were 'high' on drugs at the time. The drug use should, in fact, be viewed as possibly indicating that the behavior for which the offender was convicted is characteristic of his deviant life-style." *Varieties of Criminal Behavior* at 25-26.

[54] Kaplan, *supra* note 42, at 33.

Recently a new group of heroin users has emerged that includes both addicts and non-addicts. These are the "middle class" users, who are involved with heroin as a result of their cocaine habits. In order to counteract the effects of heavy cocaine use, many began to use heroin intranasally, and eventually became addicted to the drug. Dr. Forest Tennant, director of a number of drug abuse clinics in the Los Angeles area, observes:

> As cocaine use increases, we're seeing more addicts because heroin is the strongest neutralizer around for cocaine toxicity . . . And we're not talking about gang members and derelicts. I'm treating people who pay their union dues, go to the PTA, take their kids to Little League. We've even got a program for executives.[55]

Health Effects of Heroin Use

While narcotics serve an essential medicinal purpose as analgesics, or painkillers, they are often abused. Heroin, the most abused opiate, is derived from the opium poppy (Papaver somniferum). Heroin is generally used intravenously, the most efficient and dangerous route of administration. "Speedballs," injections of heroin mixed with cocaine, are particularly dangerous. Heroin can also be used subcutaneously, called

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[55] Los Angeles Times, Jan. 25, 1985, at 1.

"skin-popping." All of these intravenous forms of use are associated with AIDS and hepatitis, as discussed earlier. In addition, heroin can be smoked or used intranasally.[56]

Heroin is a particularly dangerous drug because of the ease with which a user can overdose. A lethal dose of heroin is only 10 to 15 times a normal dose.[57] According to Dr. Donald C. Thomas III, former director of emergency care at the District of Columbia General Hospital:

> Heroin numbs you to pain, gives you a euphoria, takes you away from reality, makes you slower and changes appetites . . . The real problem for an addict is that the threshold between the dose of heroin that gives that effect, as opposed to the dose that will kill him by suppressing respiratory or cardiac centers in

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[56] Drug Enforcement Administration, Drugs of Abuse 11 (1979) (hereinafter cited as 1979 Drugs of Abuse). The heroin "high" can last for four to five hours and is generally described as pleasant, euphoric, and warm. Heroin use induces drowsiness and dizziness. Heroin use can also lead to tolerance, addiction and withdrawal. Heroin withdrawal is first characterized by watery eyes, a runny nose, yawning and perspiration. The symptoms intensify about a day after the last use of the drug. At this point, the addict experiences tremors, irritability, insomnia, muscle aches, loss of appetite, elevated heart rate and blood pressure, chills, sweating, nausea, vomiting and diarrhea. These physical symptoms peak after approximately two or three days, but can persist for seven to ten days. The psychological craving for heroin, on the other hand, can last an indefinite period of time.

[57] E. Goode, Drugs in American Society 228 (1984).

his brain, is very narrow.[58]

Multiple overdose deaths sometimes result from one "batch" of heroin. In March 1985, for example, according to local press accounts, 8 people died and 14 were hospitalized in a few days in Washington, D.C., after injecting some particularly potent heroin.[59] Seven months earlier, 10 people died in Washington within 8 days in a similar incident.[60] It is striking evidence of the drug's overpowering influence that this risk of sudden death apparently poses no deterrent to the seasoned user. As expressed by one heroin addict:

> A true, full-blown drug addict
> would follow a morgue wagon
> to its origin of overdose to
> obtain that substance.[61]

Cultivation

Heroin entering the United States is produced from opium poppies, which are harvested in Iran, Afghanistan and Pakistan (Southwest Asia, the Golden Crescent); Burma, Thailand and Laos (Southeast Asia, the Golden Triangle); and Mexico. In 1984, an estimated 51 percent of United States heroin came from Southwest Asia, 32 percent from Mexico and 17 percent from Southeast Asia.[62]

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[58] Telephone interview with Dr. Donald C. Thomas, Director of Emergency Medicine, Washington Hospital Center (Nov. 12, 1985).

[59] Wash. Post, March 4, 1984.

[60] "Bad" Heroin Blamed in 10 Area Deaths, Wash. Post, Aug. 18, 1984.

[61] Hearing on Designer Drugs Before the Senate Comm. on Labor and Human Resources, 99th Cong., 1st Sess. (July 25, 1985).

From 1983 to 1984 illicit opium production decreased in Southwest Asia. This change resulted from decreased figures for opium production in Afghanistan caused by adverse weather conditions and a change in the methodology used to estimate opium production in Afghanistan.[63] While total opium production for Southwest Asia decreased in 1984, significant production increases were noted in Southeast Asia and Mexico[64] (See Figure 8).

Opium poppy cultivation has begun to appear in the United States as well. During a Federal raid in August 1985, more than 4,000 opium plants were discovered in Vermont, Washington, Michigan and California. Although officials of the Drug Enforcement Administration believe this opium was used for smoking, the potential for domestic heroin production exists.[65]

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[62] Information provided to the President's Commission on Organized Crime by the Drug Enforcement Administration.

[63] Id.

[64] Id., Total opium production for Southwest Asia for 1983 was estimated at 845-1,235 metric tons and 580-830 metric tons for 1984. Southeast Asian opium production for 1984 increased to 815 metric tons from 670 metric tons in 1983. Mexican opium production increased from 17 metric tons in 1983 to 21 metric tons in 1984.

[65] The Miami Herald, Aug. 31, 1985, at 15.

While America's heroin addict population has remained relatively stable, the problem of heroin addiction in Europe has increased significantly in recent years. According to a 1984 United Nations report:

> The drug abuse and trafficking situation in Western Europe is grim and deteriorating . . . Western Europe remains seriously affected by heroin abuse which is a major public health problem.[66]

The number of heroin addicts in the opium producing and other countries is also significant (See Figure 9).

There is a greater sense of the need for international cooperation on the problem of drugs, in part because drug producing nations are now feeling the effects of drug abuse, with which the industrialized world has dealt for decades. This development is critical if drug control efforts, including crop eradication, interdiction and drug education, are to be successful.

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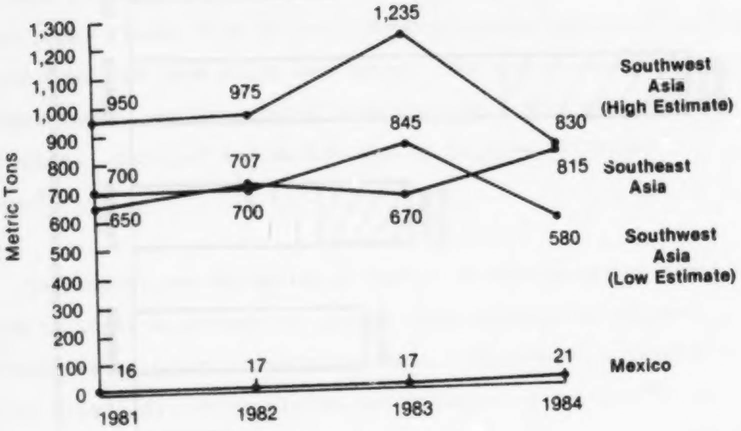
[66] International Narcotics Control Board of the United Nations, Report of the International Narcotics Control Board for 1984 at 31.

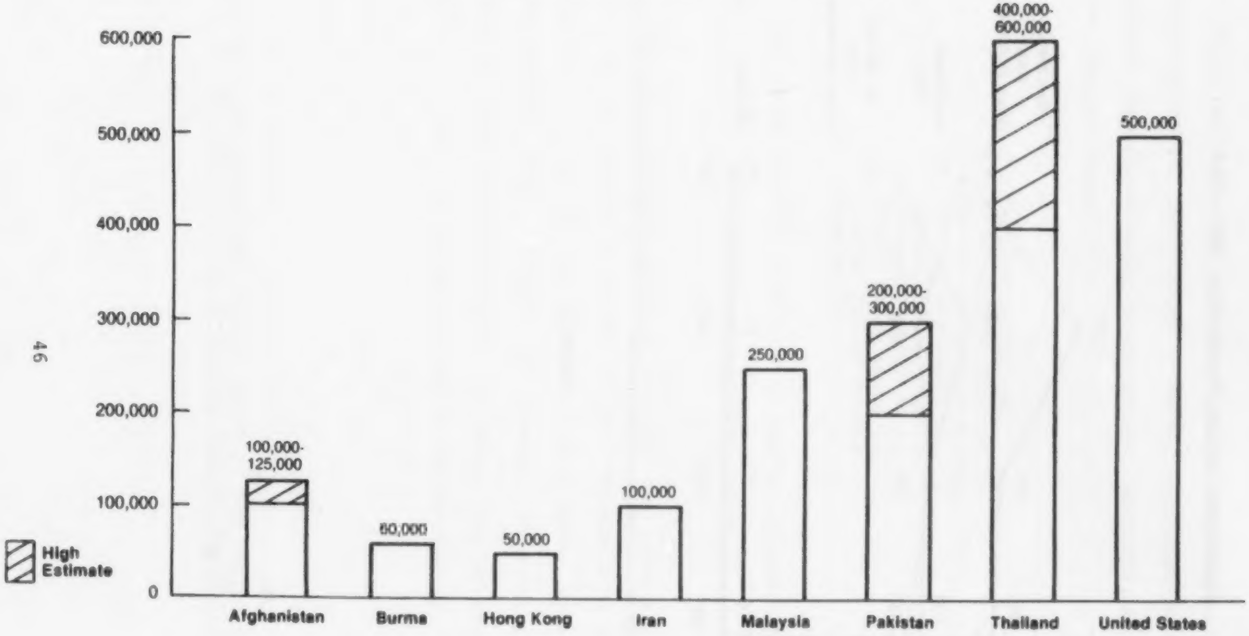


Estimated Opium Production, 1981-1984

Data Source: *1984 Narcotics Intelligence Estimate.* National Narcotics Intelligence Consumers Committee.

Figure 8

Estimated Heroin/Opium Addicts, 1984



Data Source: *1984 Narcotics Intelligence Estimate.* National Narcotics Intelligence Consumers Committee, and *The National Geographic,* February 1985.

Figure 9

Processing

The production of heroin begins after the petals of the opium poppy flower have fallen. Several incisions are then made in the seed pod from which sap oozes. The sap dries, darkens and becomes gummy, and is scraped from the pod. This dried sap is raw opium. Each pod can be incised up to five different times.[67]

To produce one kilogram of heroin, a precipitating agent is added to 10-12 kilograms of opium. This mixture is pressed, leaving one kilogram of morphine base. This base is treated with acetic anhydride, which yields one kilogram of heroin.[68] In another production method, poppies are allowed to mature and dry. Alkaloids are then extracted from these plants leaving poppy straw concentrate, which is sold in a brownish powder form.[69]

MARIJUANA

Scope of the Problem

According to the most recent National Survey on Drug Abuse, which was conducted in 1982, 50-60 million Americans, approximately 20-25 percent of the entire population, have tried marijuana; and 20 million people use the drug at least once per month.[70] Marijuana use has been widespread in this country for the last two decades. Both the number of users and the duration of marijuana's popularity indicate that marijuana use is firmly entrenched in American society.

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[67] Peter T. White, The Poppy, The National Geographic, Feb. 1985, at 143, 144.

[68] *Id*.

[69] 1979 Drugs of Abuse, *supra* note 56, at 13.

Although some surveys indicate that the number of marijuana users has been declining recently,[71] levels of use remain significantly higher than for any other illicit drug (See Figure 10). The National Survey on Drug Abuse indicates a decline in marijuana use for some age groups. Yet the survey shows that in 1982, 11.5 percent of 12-17 year olds and 27 percent of 18-25 year olds used marijuana at least once per month. The study indicates a slight, but steady, increase in marijuana use among people over age 25. In 1977, 3.3 percent reported monthly marijuana use, compared with 6.0 percent in 1982.[72] According to the survey of high school seniors conducted each year by the University of Michigan Institute for Social Research, marijuana use among high school seniors peaked in 1978, when 37 percent of these students reported monthly use of marijuana and 11 percent reported daily use of the drug. By 1984 these figures had dropped to 25 percent and 5 percent respectively. However, this decline in marijuana use ended in 1985 when 26 percent of the survey respondents reported monthly marijuana use[73] (See Figure 12).

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[70] Helen C. Jones, The Marijuana Question (1985). The U.S. Census Bureau has estimated that the population of the United States in 1982 was 232 million.

[71] According to the National Surveys on Drug Abuse, monthly marijuana use declined between 1980 and 1982 from 25,480,000 users to 20,020,000 users. However, the 1985 High School Senior Survey of Drug Use demonstrates an increase in monthly marijuana use with 25 percent of the respondents reporting such use in 1984 and 26 percent in 1985.

[72] H. Jones, supra note 70, at 468.

Marijuana consumption and the number of marijuana-associated emergency room visits have remained relatively steady in recent years (See Figures 11 and 12). In 1984 Americans consumed an estimated 7,800-9,200 metric tons of marijuana, as compared with 8,000-9,600 metric tons in 1983.[74] Use of marijuana in conjunction with other drugs, particularly PCP, diazepam and cocaine, increased in 1984.[75]

The Marijuana User

Marijuana is probably used by a wider demographic cross-section of American society than any other drug.[76] This widespread use was recognized by the 1972 National Commission on Marihuana [sic] and Drug Abuse:

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[73] 1984 and 1985 High School Seniors Surveys of Drug Use. Daily use levelled at 5 percent in 1985.

[74] 1984 Narcotics Estimate, supra note 4, at 8.

[75] Id. at 11.

[76] 1983 Narcotics Estimate, supra note 11, at 15.

> The stereotype of the marihuana [sic] user as a marginal citizen has given way to a composite picture of large segments of American youth, children of the dominant majority and very much part of the mainstream of American life.[77]

While it appears that marijuana, like other drugs, is most commonly used by those between the ages of 18 and 25, its use is by no means confined to that age group.[78] One analysis of marijuana use found that:

> Marijuana is now found at the Friday afternoon brainstorming sessions of a New York publishing house. In the cabs of long-haul trucks. In the office of a president of a cosmetic firm. Even, it is alleged, among executives of major American banks.[79]

According to the 1982 National Survey on Drug Abuse, 23 percent of 16 and 17 year olds, 8 percent of 14 and 15 year olds, and 2 percent of 12 and 13 year olds used marijuana at least once per month. Surveys have indicated marijuana use in children as young as nine years old.[80]

Health Effects of Marijuana Use

Marijuana includes any part of the plant *Canabis sativa*. In addition to marijuana, the following forms of cannabis are also abused: hashish, a resin of the plant; hashish oil, a liquid

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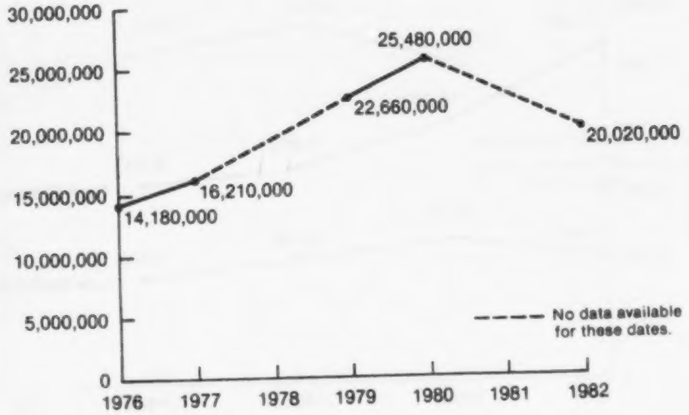
[77] National Commission on Marihuana and Drug Abuse, *Marihuana: A* *of Misunderstanding* 7 (1972).

[78] H. Jones, *supra* note 70, at 458.

[79] Peggy Mann, *Marijuana Alert* 38 (1985).

[80] *Id*. at 72.

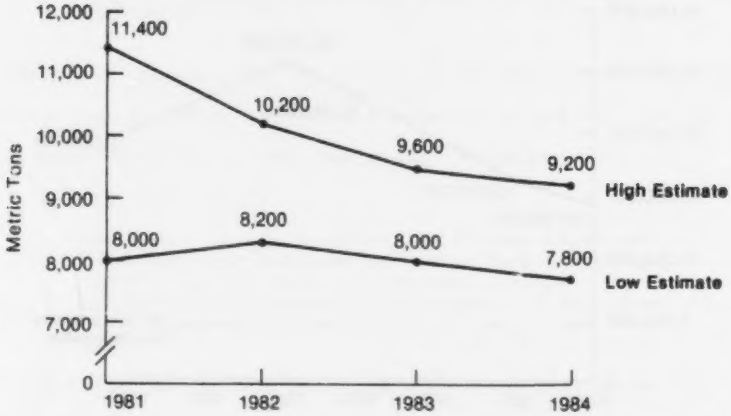
Monthly Marijuana Use, 1976-1982



Data Source: Drug Enforcement Administration.

Figure 10

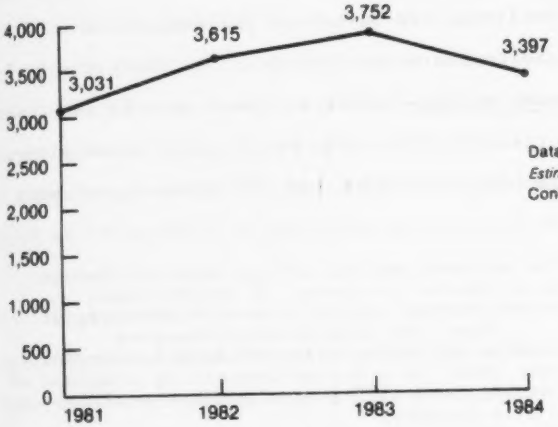
Marijuana Consumption in the United States, 1981-1984



Data Source: *1984 Narcotics Intelligence Estimate.* National Narcotics Intelligence Consumers Committee.

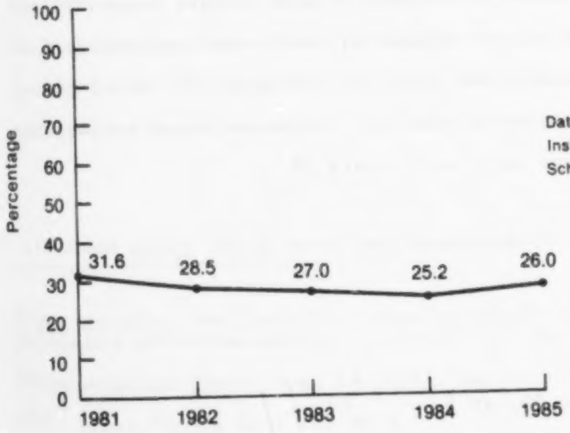
Figure 11

Marijuana-Related Emergency Room Visits, 1981-1984



Data Source: *1984 Narcotics Intelligence Estimate.* National Narcotics Intelligence Consumers Committee.

Monthly Marijuana Use Among High School Seniors, 1981-1984



Data Source: University of Michigan Institute for Social Research High School Senior Survey.

Figure 12

concentrate derived from cannabis; and sinsemilla, from the female cannabis plant.

The effects of marijuana use have been the subject of exaggeration and misunderstanding for decades. In 1936, for example, the film Reefer Madness portrayed those effects as instant violence and insanity. In 1972 the National Commission on Marihuana [sic] and Drug Abuse embraced the opposite extreme:

> No conclusive evidence exists of any physical damage, disturbances of bodily processes or proven human fatalities attributable solely to even high doses of marijuana . . .[The] few consistently observed transient effects on bodily function seem to suggest that marihuana [sic] is a rather unexciting compound of negligible immediate toxicity at the doses usually consumed in this country.[81]

Both views have been refuted by medical evidence gathered since the early 1970's. Today marijuana is described as "the most chemically complex of all commonly used illegal drugs."[82] Marijuana contains 421 known chemicals, which when smoked are combusted into more than 2,000 chemical compounds.[83] Marijuana is variously classified as a stimulant, depressant and hallucinogen because its effects vary among users.[84]

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[81] National Commission on Marihuana and Drug Abuse, supra note 77, at 56.

[82] Mann, supra note 79, at 95.

[83] Id. at 95.

[84] H. Jones, supra note 70, at 5.

Those chemicals found only in cannabis are called cannabinoids. The primary intoxicant in marijuana is delta-9-tetrahydrocannabinol (THC). The concentration of THC in marijuana has steadily increased over the last decade as a result of improved agricultural techniques. Analysis of marijuana samples indicates that the average percentage of THC in marijuana has increased from .7 percent in 1973, to 3.1 percent in 1982, to 5.6 percent in 1983.[85] THC potencies have been reported as high as 14 percent in domestically produced sinsemilla.[86]

Since 1967 when the first intensive government research program on marijuana began, over 7,000 scientific papers have been published on the subject.[87] Contrary to the findings of the 1972 National Commission on Marihuana and Drug Abuse, adverse physical and psychological effects associated with marijuana use have been demonstrated. The measurement of long-term effects of marijuana use are at present problematic because marijuana smoking has been prevalent in the United States for only approximately 15 to 20 years, shorter than the latency period for many marijuana-related diseases. In the case of tobacco it was not until after 50 years of heavy use that there was ample evidence to issue warnings about its effects.[88]

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[85] Id. at 464. Analysis performed by the Marijuana Project Research Institute of Pharmaceutical Sciences, University of Mississippi.

[86] Los Angeles Times, Aug. 18, 1985, at 1, col. 4.

[87] H. Jones, supra note 70, at 3.

Despite the common public perception that marijuana is less harmful than tobacco, scientific evidence indicates that marijuana, in fact, causes substantially more adverse health effects, due in part to the properties of the drug itself and the manner in which it is smoked. Marijuana is not filtered, as are most tobacco cigarettes, and marijuana smoke is generally inhaled more deeply and held in the lungs longer than tobacco smoke.[89] Marijuana smoke has been found to contain many of the same chemicals as tobacco smoke; indeed it has 50 percent more of cancer-causing hydrocarbons than tobacco smoke.[90]

According to the American Lung Association, marijuana smoking harms the lungs and may cause bronchitis, emphysema and lung cancer.[91] Evidence supporting this conclusion has been building for a number of years. For example, a 1976 study reported that examinations of human lung tissue "have found malignant cellular changes after shorter periods of exposure to marijuana smoke than to tobacco smoke.[92] One comprehensive review of marijuana projects that:

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[88] U.S. Dep't of Health and Human Services, *Correlates and Consequences of Marijuana Use* 2 (1984).

[89] Mann, *supra* note 79, at 104.

[90] D. Hoffmann, *On The Carcinogenicity of Marijuana Smoke*, *cited in* H. Jones, *supra* note 70.

[91] Official Statement of The American Lung Association, *quoted in* USA Today, Aug. 9, 1985, at 8A.

> Starting in the latter 1980's, we predict an increase in the rate of lung cancer among middle-aged people, representing the marijuana epidemic that began in the mid-sixties. Those smoking both tobacco and marijuana are most at risk.[93]

Marijuana use can also adversely affect both male and female reproduction.[94] Marijuana use by pregnant women is particularly dangerous and has been linked to lowered birth weight, fetal abnormalities and nervous disorders in offspring.[95] These adverse physical effects are magnified because cannabinoids, being fat soluble, collect in the fatty organs of the body, such as the testis or ovaries, brain and liver. This is of particular concern because marijuana is used by a large population of young people whose lungs, reproductive organs, and other parts of their bodies are still maturing and are particularly vulnerable to the adverse effects of drugs.[96]

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[92] U.S. Dep't of Health and Human Services, *supra* note 88, at 9.

[93] H. Jones, *supra* note 70, at 458.

[94] *Id.* A review of hundreds of studies of male reproduction and marijuana use concluded that cannabinoids decrease the functioning of the testis, the male sex gland. Prolonged use of marijuana has been found to inhibit the development of sperm. U.S. Dep't of Health and Human Services, *supra* note 88. In females, marijuana use has been found to suppress ovulation and to affect level of progesterone. *Id.*; Jones, *supra* note 70, at 48. In animal studies, THC has caused infertility, which lasted for months after discontinuation of the drug, and high-risk pregnancies.

[95] H. Jones, *supra* note 70, at 48; U.S. Dep't of Health and Human Services, *supra* note 88, at 9.

In addition to these physical effects of marijuana use, several psychological and behavioral effects have also been associated with the drug. These behavioral changes have been called "the amotivational syndrome."[97] Although lack of motivation may often precede marijuana use, many clinicians have concluded that:

> Motivational effects are directly related to use and . . . following cessation of marijuana use normal motivation may return.[98]

In addition to the effects of marijuana on motivation, marijuana use has been found to affect short-term memory, concentration, and logical thinking. A 1982 report concerning the impact of marijuana use on education concludes that:

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[96] *Id.*

[97] *Id.*

[98] Kolansky and Moore, 1971 and NIDA, 1982, *cited in* U.S. Dep't o Health and Human Services, *supra* note 88. It has been hypothesized that these effects of marijuana on motivation may result from abnormalities in brain function caused by prolonged marijuana use. A study of 21 rhesus monkeys exposed to doses of marijuana comparable to those of heavy marijuana smokers for two to three months found that:

> [E]xposure to [delta]-9-THC, the psychoactive ingredient of marijuana, at doses commensurate with those used by human marijuana smokers can produce permanent alterations in brain function and structure of monkeys.

Heath, Fitzjarrell, Fontana, and Garey, *Cannabis Sativa: Effects on Brain Function and Ultrastructure in Rhesus Monkeys*, 15 Biological Psychiatry 657 (1980).

> Every element of learning is incompatible with either the acute intoxication or the chronic mental change that marijuana use can bring.[99]

A 1980 study reported that use of marijuana 20 times or more per month is "positively correlated with absenteeism and poor school achievement among high school seniors."[100] These conclusions are particularly disturbing given the fact that tens of thousands, perhaps even hundreds of thousands, of adolescents use marijuana every day.[101]

A final concern in this area, marijuana's role as a "gateway" to subsequent use of more dangerous drugs, cannot be catagorized as either physical or psychological. While many beliefs about marijuana have been proven wrong by subsequent research, this concept has been affirmed.[102] This "gateway" theory does not indicate that marijuana use will definitely lead to the use of other drugs; however, according to a review of marijuana studies conducted by the Department of Health and Human Services,

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[99] Id.

[100] The American Council on Marijuana and Other Psychoactive Drugs, Inc., Marijuana: The National Impact on Education 26 (1983).

[101] The 1984 High School Senior Survey indicates that 5 percent of high school seniors use marijuana daily. According to the Census Bureau, there were 3,240,000 high school seniors in 1984.

[102] Johnston, 1980, cited in U.S. Dep't of Health and Human Services, supra note 88.

> Statistically, there is little question that use, particularly heavier use, is associated with a greater likelihood of experimentation with other drugs.[103]

SYNTHETIC DRUGS

Scope of the Problem

Many illicit drugs do not occur naturally. Unlike cocaine, heroin and marijuana, which are derived from plants, synthetic drugs are produced solely from chemicals. These synthetic drugs include stimulants, depressants and hallucinogens, known as dangerous drugs; synthetic narcotics, such as methadone; and controlled substance analogs, often called "designer drugs." A controlled substance analog has a chemical structure similar to controlled substance, and is designed to produce a similar effect.[104]

Use of synthetic drugs is widespread in the United States. More than six million Americans used synthetic drugs for non-medical purposes in 1982. Over 2.5 million people abused depressants, approximately 2.8 million abused stimulants, and almost 1 million abused hallucinogens.[105] Consumption of "dangerous drugs" increased 15 percent between 1983 and 1984, from an estimated 2.66 billion dosage units to 3.06 billion dosage units (See Figure 13). The greatest increases were associated with methamphetamine and phencyclidine (PCP).[106] Methamphetamine-related emergency room visits increased 20 percent from 1983 to 1984, and deaths associated with both amphetamine and methamphetamine also increased in 1984[107] (See Figure 14).

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[103] U.S. Dep't. of Health and Human Services, supra note 88, at 4.

[104] The definition of "designer drugs" as set forth in proposed Senate bill S.1417 (99th Cong., 1st Sess § 3 (July 10, 1985)), which is intended to amend the Controlled Substances Act, is as follows: "A synthetic analog is a substance, other than a controlled substance, that has chemical structure similar to controlled substance or that was specifically designed to produce an effect substantially similiar to a controlled substance."

Statistics regarding the use of controlled substance analogs are difficult to compile. This is because the use of these substances is a relatively new phenomenon, and medical examiners have generally failed to identify controlled substance analogs as a cause of death. Despite these difficulties, one synthetic analog has been responsible for the deaths of at least 100 people on the West Coast.[108] While most of these deaths occurred in California, many law enforcement authorities fear that production and use of controlled substance analogs might spread across the country because of the ease of production and large profit margin associated with these drugs. This spread has already occurred in at least one instance: drug treatment program directors in California, Florida, New York, Texas and Virginia have reported cases of use of the controlled substance analog MDMA.[109]

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[105] White House Drug Abuse Policy Office, 1984 National Strategy For Prevention of Drug Abuse and Drug Trafficking 25.

[106] 1984 Narcotics Estimate, *supra* note 4, at 37.

[107] *Id.* at 38.

[108] Letter from Gene R. Haislip, Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, to the President's Commission on Organized Crime (Sept. 24, 1985).

Synthetic Drug Users

While synthetic drugs are used for a wide range of medicinal purposes, they are also widely abused by individuals from all socio-economic groups. According to a 1978 study of individuals in treatment for stimulant and/or depressant drug abuse, 68 percent were men, 61 percent were white, 20 percent black and 19 percent of another ethnicity, 59 percent were unemployed, 77 percent had previously been treated for drug abuse, 59 percent were 25 years of age or older, and 46 percent had less than a twelfth grade education.[110]

While most people associate heroin use with crime, a 1982 study by the RAND Corporation found violent crime to be committed most often by multi-drug users, particularly those using combinations including dangerous drugs.[111] Certain synthetic drugs are particularly associated with crime. A study of all arrestees in

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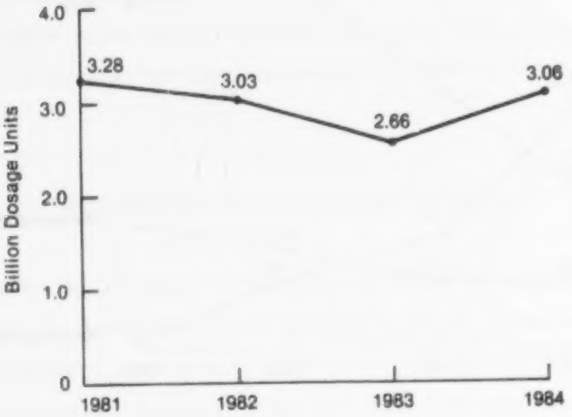
[109] Id.

[110] U.S. Dep't of Health and Human Services, Use of Stimulant/Depressant Drugs by Drug Abuse Clients in Selected Metropolitan Areas 4 (1980).

[111] J. Chaiken & M. Chaiken, supra note 53, at 17.

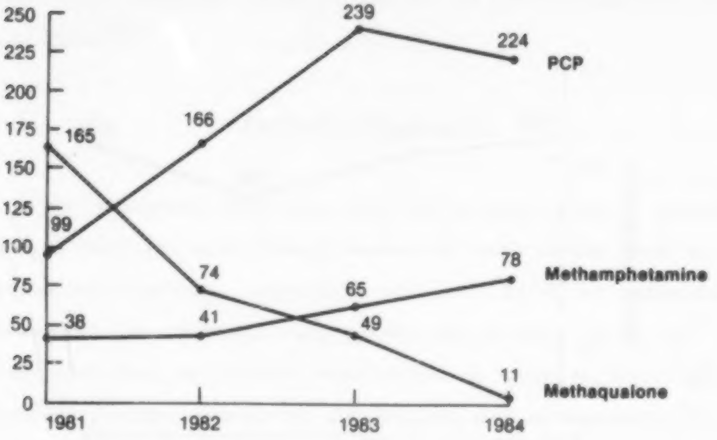
"Dangerous Drug" Consumption in the United States, 1981-1984



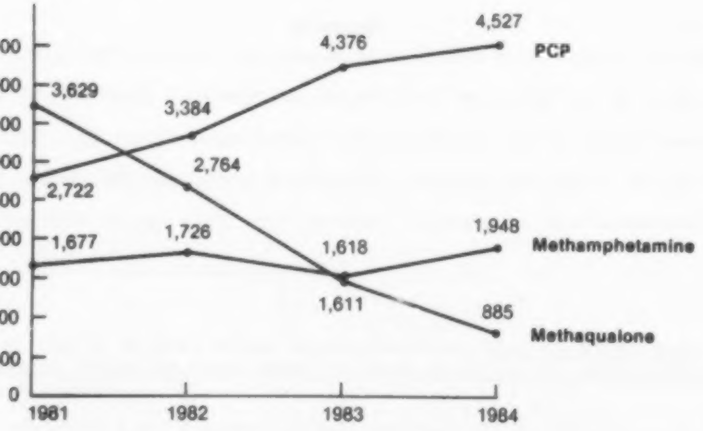
Data Source: *1984 Narcotics Intelligence Estimate.* National Narcotics Intelligence Consumers Committee.

Figure 13

Selected "Dangerous Drug"-Related Deaths, 1981-1984



Selected "Dangerous Drug"-Related Emergency Room Visits, 1981-1984



Data Source: *1984 Narcotics Intelligence Estimate*. National Narcotics Intelligence Consumers Committee.

Figure 14

Washington, D.C., from May 1984 to April 1985 found that PCP, an hallucinogen, is the drug most often detected in these arrestees. An average of over 30 percent of all adults arrested in Washington, D.C., during this period tested positive for PCP use.[112] A study of almost 5,000 male arrestees in New York City in 1984 found that 12 percent of those arrested had PCP in their bodies.[113]

Health Effects of Synthetic Drug Use

Tolerance to stimulants develops quickly.[114] Because of the "crash," or depression, followed by stimulant use, users tend to take stimulants more often in order to compensate for or avoid the post-stimulant letdown. Stimulant users are subject to a vicious cycle in which they must take depressants at night to be able to reverse the stimulant's effects. Stimulants can cause physical dependence and death. Withdrawal is characterized by depression, fatigue and excessive sleep, which may last for several days. Other withdrawal symptoms, including anxiety and thoughts of suicide, may last for weeks or months.

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[112] Study conducted by the District of Columbia Pretrial Services Agency, Drug Detection Center (1985).

[113] Dr. Eric Wish, PCP and Crime: Just Another Illicit Drug (August 1985) (unpublished paper).

[114] 1985 Drugs of Abuse, *supra* note 21, at 37. Use of stimulants generally produces abundant energy, exhilaration, hyperactivity and loss of appetite. Heavy use of stimulants can cause paranoia with hallucinations, dizziness, tremors, hostility, chest pains with palpitations, sweating, vomiting and abdominal cramps and death. High fever, convulsions and cardiovascular collapse usually precede death from stimulants.

Depressants can also cause tolerance and physical dependence Abuse of depressants is marked by impaired judgment, slurred speech and loss of motor coordination. Depressants are particularly dangerous when used in combination with alcohol or other drugs. Heavy use of depressants can cause a weak, rapid pulse, shallow respiration, coma and death.[115]

Hallucinogens alter mood, and, in large doses, cause delusions and hallucinations. This impaired judgment can lead a user to physically harm himself or others. "Flashbacks," in which the user has a brief recurrance of the psychedelic effects of hallucinogens, sometimes occur long after the drug is used. Tolerance and psychological dependence can also result.[116] PCP, often called "Angel Dust," is one of the most dangerous and widely abused hallucinogens. Reactions to PCP are unpredictable and include euphoria, depression, anxiety or panic. PCP use is associated with extremely violent behavior, including assault, rape, and murder. Feelings of omnipotence sometimes lead a PCP user to suicidal behavior, including walking in front of moving vehicles or jumping out of windows.[117]

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[115] _Id._ at 25. Withdrawal from depressants usually begins within hours of the last dose. The symptoms include anxiety, nausea, vomiting, increased heart rate, sweating, tremors and abdominal cramps. These withdrawal symptoms intensify after two to eight days of abstinence, depending on the particular depressant taken. Convulsions and delirim characterize this stage of withdrawal.

[116] _Id._ at 49.

Controlled substance analogs are designed to mimic the effects of various drugs and are particularly dangerous because of their toxicity. One synthetic analog, 3-methyl fentanyl, is up to 1,000 times more potent than morphine.[118] According to Dr. Robert J. Roberton of California's Department of Alcohol and Drug Programs, "You could kill 50 people with the amount that fits on the head of a pin."[119]

Fentanyl analogs, the most commonly abused controlled substance analogs, produce a feeling of euphoria similar to that associated with heroin use. These drugs also produce respiratory depression and muscle rigidity.[120] MPTP, which is a synthetic analog of the narcotic meperidine, causes brain damage, Parkinson's disease and death. Although Parkinson's disease usually strikes people in their fifties and sixties, people of various ages, who have used MPTP, have contracted the disease, which causes slowed movement, tremors, rigidity, dementia and death.[121] The neurological damage associated with use of MPTP i irreversible.[122]

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[117] Ronald K. Siegel, PCP and Violent Crime: The People vs. Peace, 12 Journal of Psychedelic Drugs (1980).

[118] Information provided to the President's Commission on Organized Crime by the Drug Enforcement Administration.

[119] N.Y. Times, March 24, 1985, at 22.

[120] Hearing V: Organized Crime and Heroin Trafficking, Before the President's Commission on Organized Crime 504, 505 (Feb. 1985) (testimony of Dr. Robert J. Roberton, Chief, Division of Drug Programs, California Dep't of Alcohol and Drug Programs).

DRUG ABUSE FUELS DRUG TRAFFICKING

Drug abuse in the United States is a problem of vast and growing proportions. Millions of Americans use cocaine, heroin, marijuana, or synthetic drugs, or combinations of these drugs. Consumption of cocaine and dangerous drugs has increased recentl as have the deleterious health effects associated with them. Th downward trend in marijuana use which began in 1979 appears to have ended at least temporarily in 1985.

Particularly dangerous forms of drug use have increased during the last few years. Use of "crack," coca base which is smoked and which has been called the most potent, addictive, and cheapest form of cocaine, has become prevalent in the New York City area. Use of "designer drugs," some of which have caused Parkinson's disease, have been blamed for over 100 deaths. Ther is evidence of a link between intravenous drug use and the contraction of Acquired Immune Deficiency Syndrome (AIDS).

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[121] _Id_. at 505.

[122] Information provided to the President's Commission on Organized Crime by the Drug Enforcement Administration.

Drug abuse affects much more than the individual drug user; it also impacts on families, communities and entire governments. The taint of drugs has reached into virtually every aspect of American life, from public safety to the integrity of professional sports. These problems and the full range of massive government and private responses discussed in this report, including increased education and enforcement efforts, expanded intelligence and interdiction programs, and diversions of militaryresources, costing billions of dollars, is the direct result of a single cause: the destructive self-indulgence of individual drug purchasers. Each time a drug user buys cocaine, heroin, or other drugs, he makes a contribution to organized crime. Such contributions are the sole sustenance of the violence, corruption, illness and death that trafficking groups bring to this and other societies.[123]

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[123] Though difficult to document, the relationship between street crime and criminal organizations is quite probable. This view has been summarized by Commissioner Eugene H. Methvin, who filed this supplementary comment: "We often overlook the critical linkages among organized crime, drug trafficking, and street crime and violence. Heroin and probably cocaine are chemicals which bind individual street criminals to organized crime and convert them into predatory servants who forage and rob and steal from productive Americans for the mobsters. The organized crime operators catch the street criminal coming and going. He must deal with them for his drugs, and to sell the goods he steals he must turn to them for fencing. Thus, in a significant degree, organized crime profits from the seemingly unconnected burglaries and robberies whose frequency has soared in America in the last quarter century right along with drug use."

CHAPTER III: DRUG TRAFFICKING AND ORGANIZED CRIME

INTRODUCTION

Drug trafficking is the most widespread and lucrative organized crime operation in the United States, accounting for nearly 40 percent of this country's organized crime activity and generating an annual income estimated to be as high as $110 billion.[1] Large trafficking organizations dominate the illicit drug market. These groups include the "families" of America's *La Cosa Nostra*, as well as an array of more recently identified crime groups such as the Sicilian "Mafia," outlaw motorcycle gangs and groups based in the Nigerian and Colombian communities.[2] While *La Cosa Nostra* has historically been involved in narcotics trafficking,[3] newer organizations, in many ways quite different from *La Cosa Nostra*, now play a maj role in the drug trade.[4] Generally, these newer groups develop solely around drug trafficking operations and are activity-specific, dependent only on drug-related criminal activity for income. They tend to be more fluidly organized *La Cosa Nostra*, and are not as self-contained but are marked degree of violence and corruption unsurpassed by any other criminal activity.

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[1] According to a survey of local law enforcement agencies conducted by this Commission, marijuana, cocaine and dangerous drug trafficking are the three primary activities of organized crime groups in the U.S. *See Survey of Local Law Enforcement Agencies*, Appendix D. $110 billion annual income figure has been calculated by the U.S. Select Committee on Narcotics Abuse and Control. *Annual Report for the Year 1984*, H.R. Rep. No. 1199, 98th Cong., 2nd Sess. 9 (Jan. 3, 1985) (hereinafter cited as *1984 Annual Report*). The income available to individual drug traffickers is also considerable. According to a survey conducted by the Internal Revenue Service and this Commission of 531 cases successfully prosecuted by IRS (Criminal Investigation Division), the drug trafficker in 1981 had an average income of $306,000. Income in his checking account increased by an average of $22,000 over the previous year; in business and commercial property by $205,000; in homes by $184,000; in vehicles by $45,000; and in other assets by $122,000.

[2] *Survey of Local Law Enforcement Agencies*, *supra* note 1, Appendix D of this Report. A portion of the U.S. supply, however, is trafficked into this country by small groups or individual entrepreneurs. *See* Testimony of former smuggler Cecily Lermusiaux, *Hearing V: Organized Crime and Heroin Trafficking*, before the President's Commission on Organized Crime 343-367 (Feb. 1985).

Organized crime groups involved in drug trafficking, however, share a central feature with other organized crime groups in that they consist of a core criminal group and a specialized criminal support designed to facilitate illicit activity. This "core/support" configuration is one this Commission has found to be common to all organized crime group today.

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[3] Despite popular depictions to the contrary, *La Cosa Nostra* ha been and remains active in the narcotics trade. Edicts by organized crime leaders in 1948 and 1960 that the "families" should not deal in narcotics were largely ignored. *See* Peter Mass, *The Valachi Papers* 245 (1968) and Editors of *Newsday*, *Th Heroin Trail* 200 (1974). In his autobiography, Joseph Bonanno reported former boss of the Bonanno Crime family, states, "In family some activities were considered out-of-bounds. I do no tolerate any dealings in . . . narcotics." Joseph Bonanno, *A of Honor* 130 (1984). Yet officials of the Bureau of Narcotics testified before the Senate Permanent Subcommittee on Investigations in 1964 that "95 percent of the heroin smuggled into the United States since World Was II has been controlled Mafia gansters." Permanent Subcommittee on Investigations, Senate Committee on Governmental Affairs, *Organized Crime and Illicit Traffic in Narcotics* 56 (March 4, 1965).

[4] *Survey of Local Law Enforcement Agencies*, *supra* note 1.

COCAINE TRAFFICKING

America's cocaine supply at present originates exclusively in South America.[5] Coca is cultivated principally in Peru, Bolivia, Colombia and Ecuador, and conversion laboratories have been located in Colombia, Brazil and Venezuela. Other South American and Caribbean countries serve as transshipment sites.[6] All phases of the cocaine trade, including cultivation, processing and distribution have expanded since 1984, and the industry shows no signs of diminishing despite the fact that cocaine supply already exceeds consumer demand.[7]

Control of the cocaine industry has traditionally been maintained by a cartel of Colombian traffickers.[8] Colombian groups are the largest, wealthiest, most sophisticated organizations trafficking in cocaine. A key to their domination of the market has been their control of the processing laboratories used to convert coca grown traditionally in Bolivia and Peru. Export of the drug to the United States has also been handled almost exclusively by Colombian trafficking organizations.[9] While Colombians currently control an estimated 75 percent of the cocaine distributed to the United States,[10] their domination has been lessened recently both by the Colombian government's imposition of severe restrictions on the importation of chemicals essential to cocaine processing[11] and by the destruction of cocaine processing sites throughout Colombia by government authorities. In 1984 three major Colombian conversion laboratories were discovered and destroyed: at Tranquilandia, the largest facility, ten metric tons of cocaine and 10,000 barrels of processing chemicals were seized.[12] In total, Colombian authorities confiscated 16 metric tons of cocaine in 1984, a 600 percent increase from the 2.5 metric tons seized in the previous year.[13] The pressures on cocaine traffickers were compounded in that year by the Colombian government's decision to extradite drug traffickers

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[5] Drug Enforcement Administration, Special Report: Worldwide Cocaine Trafficking Trends 4-9. (1985) (hereinafter cited as DEA Special Report).

[6] Department of State, Bureau of International Narcotics Matters, International Narcotics Control Strategy Report, Mid-year Update 13-19 (1985); Information obtained through confidential Commission source.

[7] 1984 Annual Report, *supra* note 1, at 12.

[8] International Drug Production: Hearing before the Subcomm. on Alcoholism and Drug Abuse of the Senate Comm. on Labor and Human Resources, 99th Cong, 1st Sess. (March 13, 1985) (Statement of John C. Lawn, 7).

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[9] Dominick DiCarlo, International Initiatives to Control Coca Production and Cocaine Trafficking, Drug Enforcement, Fall 1982, at 8.

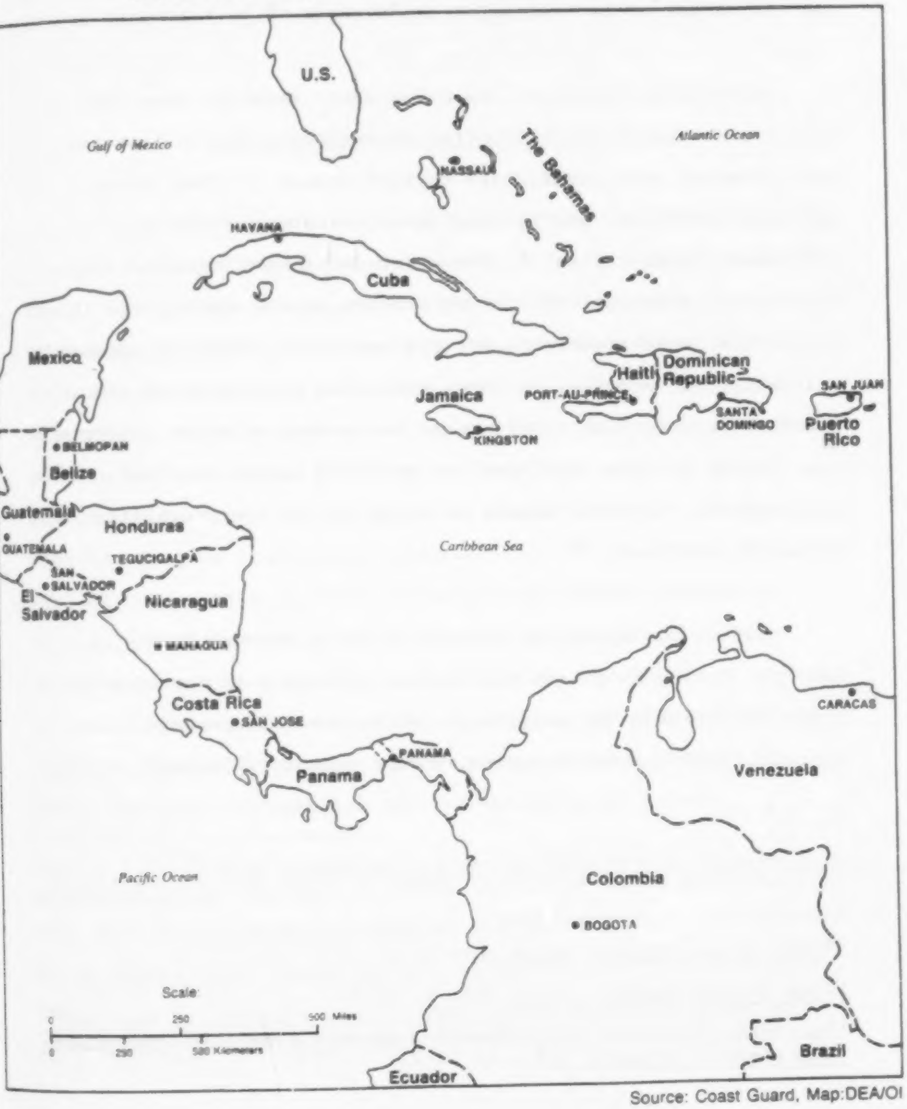
[10] National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate 1984.

[11] International Drug Production, supra note 8.

[12] Hearing IV: Organized Crime and Cocaine Trafficking, before the President's Commission on Organized Crime 613-619 (Nov. 1984).

[13] DEA Special Report, supra note 5, at 7.

CENTRAL AMERICA AND THE CARIBBEAN


U.S.
Gulf of Mexico
Atlantic Ocean
NASSAU
The Bahamas
HAVANA
Cuba
Mexico
Haiti
Dominican Republic
Jamaica
PORT-AU-PRINCE
SAN JUAN
SANTA DOMINGO
Puerto Rico
KINGSTON
BELMOPAN
Belize
Guatemala
GUATEMALA
Honduras
TEGUCIGALPA
SAN SALVADOR
El Salvador
Nicaragua
MANAGUA
Caribbean Sea
Costa Rica
SAN JOSE
PANAMA
Panama
CARACAS
Venezuela
Pacific Ocean
Colombia
BOGOTA
Scale
0
250
500 Miles
0
250
500 Kilometers
Brazil
Ecuador

Source: Coast Guard, Map:DEA/OI

tothe United States, and by the subsequent issuance of warrants for the arrest of several major traffickers.[14]

Intensified Colombian law enforcement measures have had significant impact on trafficking operations. The initiatives have prompted many traffickers to seek refuge in other South American countries, and in some cases to relocate their processing laboratories.[15] These incidents have resulted in ageographic dispersal of cocaine processing and export activities, most notably to Bolivia and Peru. While it appeared initially that activity in these countries was sponsored and overseen by Colombian traffickers, increasing evidence suggests that groups in both countries are becoming self-sufficient. Such developments, however, remain an exception to the prevailing Colombian dominance.[16]

Despite the spread of cocaine activity through South America, Colombian groups have left little room in the cocaine trade for small-scale smugglers. While some independent operators and smaller smuggling groups occasionally work independently of the Colombian cartel, most are tied to the larger organization in at least a contractor relationship.[17]

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[14] 1984 Annual Report, supra note 1, at 23.

[15] DEA Special Report, supra note 5, at 9.

[16] National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate 1983, at 22-23.

The Colombian Connection: Origins

The Colombian involvement in U.S. cocaine trafficking can be traced to the influx of Cuban citizens to South Florida after the Castro Revolution in the early 1960s.[18] Some of the Cuban-settled communities became bases for the continuation of established Cuban organized crime networks known as the "Cuban Mafia."[19] The Cuban Mafia had been a major distributor of the cocaine in Cuba, where the drug has long been accepted as a social luxury, and thus had existing connections with South American cocaine trafficking organizations.[20] At first, the Florida Cuban Mafia factions imported only enough cocaine to satisfy members of their own community, but by the mid-1960's, they began to import greater quantities of the drug in an effort to expand distribution and increase profit. By 1965 Colombians supplied nearly 100 percent of the cocaine moving through the Cuban networks. Colombians refined the drug and Cubans trafficked and distributed it in the United States.[21] The system worked for a time, but the Colombians increasingly desired control of the entire operation. Through the late 1960's and early 1970's they became more involved in cocaine production, and increased their trafficking role. By 1978 Colombian traffickers had cut all ties with the Cubans and assumed the dominant role they now play in supplying cocaine to the American market.[22]

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[17] Drug Interdiction Symposium before the President's Commission on Organized Crime, 81 (Oct. 7, 1985) (testimony of A. Barry Seal).

[18] H. Messick, Of Grass and Snow 24 (1979).

[19] The Heroin Trail, supra note 3, at 169.

[20] Hearings To Create a Select Committee on Narcotics Abuse and Control Before House Comm. on Rules and Administration, 96th Cong. 2nd Sess. 70 (1980).

Colombian groups have continued to control the U. S. cocaine market through the 1980's for a number of reasons. Geographically, Colombia is well-positioned both to receive coca from Peru and Bolivia and to export the processed drug to the United States either by air or by sea. In addition, the country's vast central forests effectively conceal clandestine processing laboratories and air strips, which facilitate the traffic. Perhaps most importantly, the Colombians have a momentum by benefit of their early involvement in the cocaine trade. They have evolved from small, disassociated groups into compartmentalized organizations and are sophisticated and systematized in their approach to trafficking cocaine in the United States.[23] Further, groups in the Colombian population in the U.S. provide traffickers access to this country and often serves as a distribution network for Colombian cocaine.[24]

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[21] Id.

[22] Organized Crime and the Use of Violence: Hearings before the Permanent Subcommitee on Investigations of the Senate Committee On Governmental Affairs, 96th Cong., 2nd Sess. 73 (1980).

[23] See Organized Crime and Cocaine Trafficking, supra note 12, at 548-552.

The Colombian Organization

The major Colombian trafficking organizations are structured to control each intermediate step required in processing and exporting cocaine.[25] Like traditional organized crime groups, they are built of interdependent and essential component "divisions," each with a specialized area of responsibility. Different members act as laborers, processors, transporters, financiers and enforcers. In addition, organizations generally supplement their regular membership with criminal support of affiliates who perform services on a fee basis. Few members of any organizational divison are aware of the others involved in the enterprise, and trafficking bosses are well-insulated and protected by their organizations.[26]

Organization laborers and processors prepare cocaine for U. S. consumption. Most laborers in the cultivation phase are Peruvian or Bolivian peasants[27] who cultivate and harvest coca in remote areas of the Eastern Andes, then process the coca leaves to base in nearby villages.[28] The growers are allied in small, independent groups, but are typically financed, overseen, and protected by members of a larger Colombian organization.[29]

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[24] Id.

[25] Id. at 151-162.

[26] Id.

[27] Id. at 567.

Processed coca base is usually flown on light aircraft from the mountain villages to Colombian processing facilities by thosemembers of the Colombian organization responsible for transportation.[30] The planes land at clandestine airstrips, often simple mud runways, located near the processing laboratories.[31] The laboratories vary widely in size, ranging from crude small-quantity operations to large, sophisticated complexes,[32] and can be found both in Colombia's jungle and urban areas.[33]

Coca base is typically processed to cocaine hydrochloride in the laboratories, then bagged and taped into kilogram packages, which are sometimes coded to indicate a particular United States destination. The packages are loaded into duffle bags or burlap sacks, then moved by the transportation group to a "stash house," a storage facility usually located near a seaport or a clandestine airstrip. The cocaine is held at the stash house until it is exported from Colombia.[34]

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[28] Id.

[29] Id. at 549-550.

[30] Id. at 130.

[31] Id.

[32] Id. at 568. A room in an average-size house could be large enough to produce 500 kilos of cocaine per month.

[33] DEA Special Report, supra note 5, at 5.

Colombian trafficking organizations currently export an estimated 62 percent of the cocaine they process on private aircraft. The remaining 38 percent is shipped on ocean vessels or smuggled on commercial air carriers (See Figure 1).[35] Most shipments are smuggled out of Colombia from the country's northern coastal region, the Guajira Peninsula. Principal smuggling centers include the cities of Santa Marta, Barranquilla, Cartagena, and Medellin.[36] In addition, a significant percentage of processed cocaine leaves Colombia from airstrips located near larger processing facilities in the jungles.[37]

Typically, Colombian organizations oversee each cocaine shipment from cultivation through wholesale transactions in the United States. Retail and street-level sales are handled by a variety of smaller groups and individuals in this country.[38]

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[34] Organized Crime and Cocaine Trafficking, supra note 12, at 569.

[35] Narcotics Intelligence Estimate 1984, supra note 10, at 330.

[36] Narcotics Intelligence Estimate, 1983, supra note 16, at 20.

[37] Drug Interdiction Symposium, supra note 17, at 39.

[38] Organized Crime and Cocaine Trafficking, supra, note 12, at 550.

The money generated by the wholesale cocaine transaction is maintained for the organization by financial experts familiar with international banking, who are responsible for laundering, banking and investing drug profits, and for assuring that a portion of the drug profit is returned to Colombia for reinvestment in the organization's cocaine enterprise.[39] The cartel's own financial experts are supported by a complement of bankers, lawyers and other professionals in the United States, who play a crucial role in facilitating these transactions.

Colombian trafficking organizations, like other organized crime groups, rely on "enforcement" through violence and intimidation to protect their inventory and profits.[40] "Enforcement" occurs both in Colombia and in the United States and includes the collection of debts owed to the organization[41] and the elimination of interference from competitors, informants and law enforcement officials.[42]

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[39] Id. at 571.

[40] Id.

[41] Id. at 571-572.

[42] Id.

Pilots: The American Affiliates

Cocaine is ordinarily smuggled from South America to the United States for major trafficking organizations by American citizens acting as mercenary pilots.[43] Recruits include ex-military, commercial and private pilots, and in some cases, unlicensed aviators.[44] The speed, mobility and evasive capabilities of air transport have made it the preferred mode of shipment among Colombian traffickers, and many have built airstrips either near their processing centers or along the coastlines to permit the fast direct export of cocaine. On Colombia's north coast alone, over 150 clandestine landing strips and three international airports facilitate smuggling activities.[45]

Individual pilots are generally responsible for purchasing or leasing transportation vehicles and hiring flight crews. Obtaining a plane for purchase seldom presents any difficulty, since many aircraft are regularly advertised for sale in a number of trade periodicals. One popular journal, Trade-a-Plane, is published three times each month and advertises thousands of aircraft available for sale in each issue. Planes are also available for purchase at numerous government auctions of seized properties. These events often allow traffickers to repurchase aircraft, which they were previously forced to forfeit.[46]

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[43] Id. at 664.

[44] DEA Special Report, supra note 5, at 15.

[45] Drug Interdiction Symposium, supra note 17, at 34.

Because traffickers attempt to ship the largest possible quantities of cocaine to the widest range of destinations in the United States, the aircraft selected for smuggling generally represent the optimum balance between range and cargo capacity. The most popular of these are conventional light twin engine planes, such as the Piper Aztec, Piper Navajo and the Cessna 400 series. Most such planes can transport about a ton of cocaine over a range of about 1,800 miles and can stay airborne for 11 and one hours with standard fuel systems. Larger airplanes such as DC-3 aircraft are common on shuttle flights between the United States and various transshipment points; the fastest aircraft are always preferred when available.[47]

To maximize range and capability, smuggling planes are often outfitted with auxiliary fuel systems. These auxiliary systems may be attached to the outside body of the aircraft or the wing, but must be inspected and approved by the Federal Aviation Administration each time the outfitted aircraft prepares for flight.[48] A favored auxiliary system for cocaine traffickers is the collapsible rubber fuel "bladder," which may be placed in the plane's fuselage, and simply folded up or thrown away after the fuel contained within is used. The space occupied by the bladder on the trip to Colombia can be utilized for cocaine transport on the return journey.[49] Bladders are, under all circumstances, prohibited by Federal law.[50]

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[46] *Organized Crime and Cocaine Trafficking*, *supra* note 12, at 663.

[47] *Id*. at 664.

[48] *Drug Interdiction Symposium*, *supra* note 17, at 36.

Although the legitimate need for auxiliary fuel systems is very limited, the systems are well-advertised and readily available. One trafficker told the Commission he purchased bladders and other long-range fuel systems regularly, always paying the seller with "suitcases full of cash." He claims his cash was never questioned or refused.[51]

Traffic From Colombia to the United States: The Hydra's Head

Smugglers use a vast number of both air and sea trafficking routes to transport cocaine from South America to the United States. The most commonly travelled routes are through the Windward Passage between Cuba and Haiti, through the Yucatan Channel between Mexico and Cuba, and through the Mona Passage, bordered by the Dominican Republic and Puerto Rico.[52]

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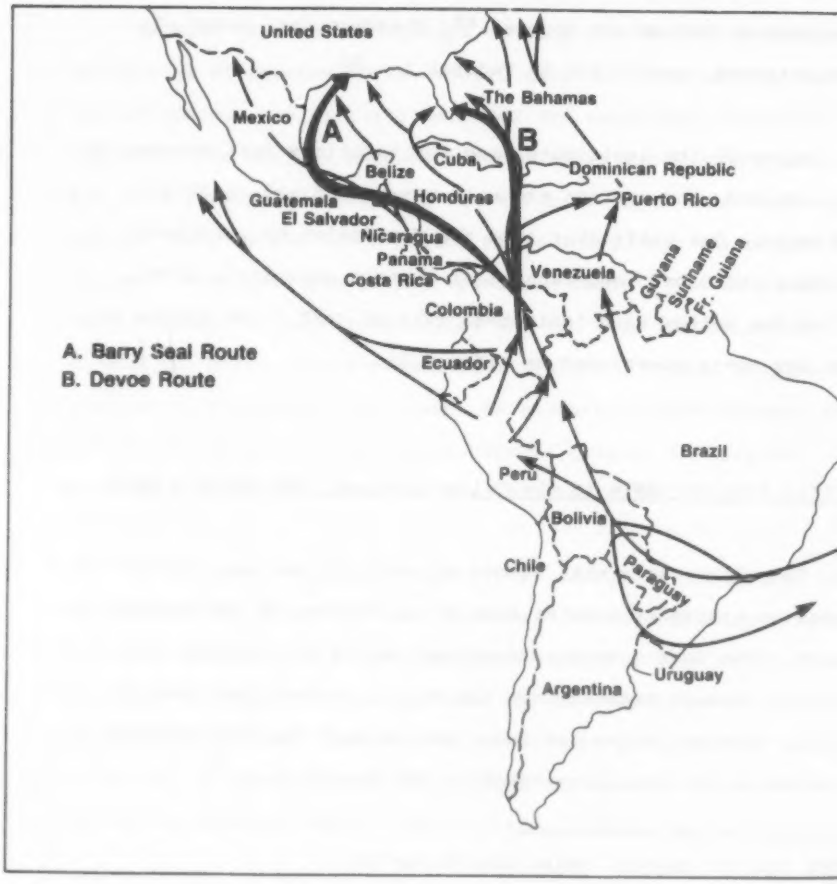
[49] DEA Special Report, supra note 5, at 15.

[50] Drug Interdiction Symposium, supra note 17, at 36.

[51] Id. at 37.

[52] Organized Crime and Cocaine Trafficking, supra note 12, at 304-A.

COCAINE TRAFFICKING ROUTES


United States
Mexico
A
B
The Bahamas
Cuba
Belize
Dominican Republic
Guatemala
El Salvador
Honduras
Puerto Rico
Nicaragua
Panama
Costa Rica
Venezuela
Guyana
Suriname
Fr. Guiana
Colombia
A. Barry Seal Route
B. Devoe Route
Ecuador
Brazil
Peru
Bolivia
Chile
Paraguay
Uruguay
Argentina

Sc

Traditionally, 90 percent of the cocaine shipped by these routes has entered the United States at points along the Florida coast; traffickers now, however, more frequently deliver shipments to all the States along the Gulf Coast and elsewhere throughout this country.[53] Cocaine traffic also now runs directly from Colombia's west coast to California and other western states.[54] These shifts are perceived as a response by traffickers to increased law enforcement pressure in South Florida, specifically to the intensified efforts of the South Florida/Caribbean Organized Crime Drug Enforcement Task Force.[55] The theme is a common one: as law enforcement closes off one point of entry to drug traffickers, traffickers develop many new points of entry as replacements.

Air Shipment

Nearly two-thirds of the cocaine exported from South America to the United State is transported by general aviation aircraft.[56] Planes of all sizes, ranging from small turbo-prop craft to large C-123 cargo transport planes, are used for drug shipment.[57] Small aircraft, which cannot carry adequate fuel to allow direct flight from Colombia to the United States, must refuel at transshipment points between the two countries.[58] These contact points are indispensable, and are located throughout Central America, the Dominican Republic, Cuba, the Bahamas and Puerto Rico. Transshipment points may be simply refueling stations, or may be bases or stations equipped to allow cocaine off-loading and repackaging. From the transshipment points, cocaine is generally ferried to the United States by small planes or boats.[59]

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[53] *Id.* at 680-681.

[54] *Id.*

[55] On October 1, 1984, the Florida/Caribbean Task Force was implemented as part of the Organized Crime Drug Enforcement Task Force Program. By December 31, 1984, the Florida/Caribbean Task Force had seized 1,637 kilograms of cocaine, 34,500 kilograms of marijuana, $4,117,000 in cash and $3,625,000 in property. An additional $712,000 cash and $3,676,000 in property were forfeited to the Task Force; the group also assessed $863,000 in drug-related fines. *1984 Annual Report of the Organized Crime Drug Enforcement Task Force Program* 100-104 (March 1985).

Mexico has gained popularity as a transshipment point since 1980. Although coca cultivation has not been observed in Mexico, an estimated 10 to 20 percent of the cocaine exported to the

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[56] *Narcotics Intelligence Estimate 1984*, *supra* note 10, at 33.

[57] The most popular drug-smuggling plane is the light twin engine aircraft. *President's Commission on Organized Crime*, *Organized Crime and Cocaine Trafficking*, *supra* note 12 at 662. Cocaine trafficking pilot Adler B. Seal testified that he flew a C-123-K transport plane into a Nicaraguan airport, loaded the aircraft with cocaine, and flewback to the United States. The C-123-K "has a wing span about the size of a C-5. You can drive a tank in it." *Drug Interdiction Symposium*, *supra* note 17, at 52.

[58] *See Organized Crime and Cocaine Trafficking*, *supra* note 12, at 241-275 (Testimony of O. Larry Hall, Jack Devoe and Luis Garcia).

[59] *Id*.

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United States currently transits that country.[60] Three Mexican transshipment patterns are typical. First, Mexican traffickers obtain cocaine in South America, transport it to Mexico, then traffic the drug overland into the United States. Second, Colombian or American couriers travel by commercial aircraft from South America to Mexico, then cross the border into this country. Finally, Colombian or North American traffickers use Mexico's numerous clandestine airstrips, especially in Yucatan, for refueling and offloading purposes; the smuggling plane in use may continue directly into the United States, or the shipment may be broken into smaller loads, then trafficked overland by Mexican organizations.[61] The majority of cocaine shipped through Mexico is transported to the United States by car, truck or bus, but a sigificant amount is smuggled aboard small aircraft.[62] The Mexican groups, formerly limited primarily to trafficking heroin and marijuana, have eagerly expanded their role as middlemen between Colombian traffickers and American consumers.

Maritime Shipment

An estimated 18 percent (15 tons in 1984) of the cocaine trafficked into the United States is exported from South America

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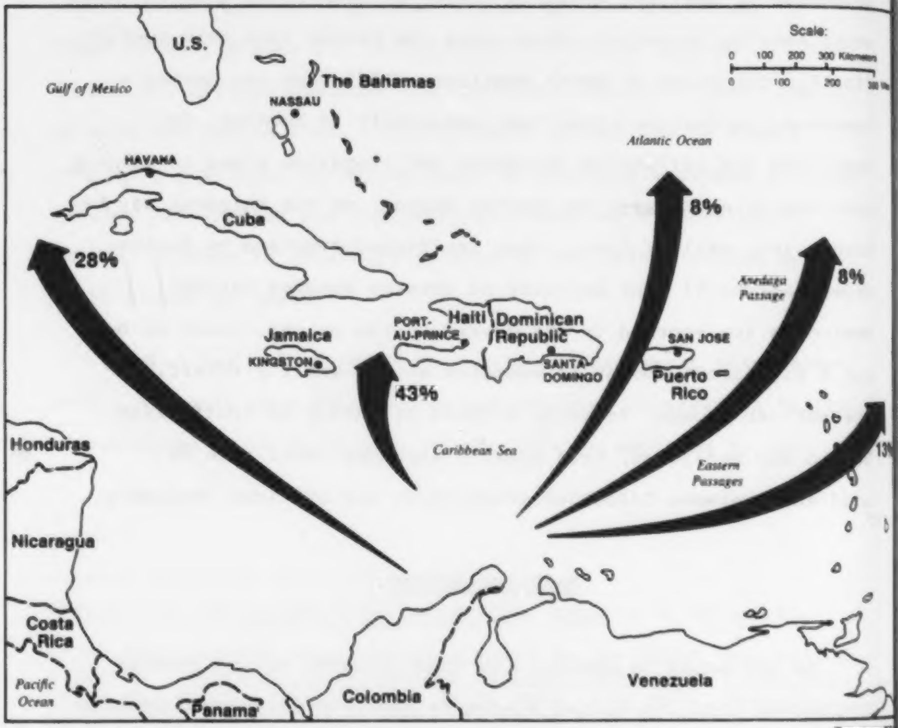
[60] Mexico: A Profile, Drug Enforcement, Summer 1985, at 17.

[61] *Id.*

[62] *Id.* at 11-13.

CARIBBEAN ROUTES USED IN MARITIME DRUG TRAFFICKIN


U.S.
Gulf of Mexico
The Bahamas
NASSAU
Scale:
Atlantic Ocean
HAVANA
Cuba
28%
8%
8%
Anegada Passage
Jamaica
KINGSTON
PORT-AU-PRINCE
Haiti
Dominican Republic
SANTA DOMINGO
SAN JOSE
Puerto Rico
43%
Caribbean Sea
Eastern Passages
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Honduras
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Costa Rica
Pacific Ocean
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Colombia
Venezuela

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by sea vessel.[63] All types of ships are used for smuggling, from small high-speed cigarette boats to large commercial cargo carriers.[64] Colombians dominate maritime cocaine smuggling, and most shipments depart that country's north coastline, which features three major seaports and countless debarkation ports for smaller craft.[65] Approximately one-half of the cocaine exported by sea is concealed in commercial vessels, and a smaller percentage is shipped in private boats which are frequently outfitted with special compartments designed for drug storage.[66] Small amounts of cocaine are also often shipped on with marijuana on noncommerical smuggling vessels.[67]

Maritime trafficking routes have shifted significantly in the past five years, primarily in response to increased law enforcement surveillance. While a major portion of the maritime traffic formerly flowed directly into South Florida, traffickers now increasingly use the longer eastern routes through the Caribbean to the Mid-Atlantic and New England coasts, as well as direct routes to the U.S. west coast. These routes make smuggling more expensive for traffickers, since they require larger vessels, larger crews and more sophisticated electronic equipment.[68]

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[63] Narcotics Intelligence Estimate 1984, supra note 10, at 33.

[64] Organized Crime and Cocaine Trafficking, supra note 12, at 51.

[65] Id.

[66] Narcotics Intelligence Estimate 1984, supra note 10, at 33.

[67] Organized Crime and Cocaine Trafficking, supra note 12, at 680.

Case Study: Devoe Airlines[69]

Devoe Airlines was a scheduled commuter air service operating between Miami and smaller Florida cities during the early 1980's. Owned by Miami pilot Jack Devoe, the business was essentially a front for a Colombian drug trafficking operation,which included regular large quantity marijuana and cocaine smuggling. In total, 8 to 10 contract pilots employed by Devoe were involved in over 100 trafficking flights over a five year period and carried roughly 7,000 pounds of cocaine from South America to the United States. Jack Devoe estimates that his flying organization grossed millions of dollars each month during peak smuggling periods.

Devoe's trafficking pilots initially travelled non-stop routes between the United States and Colombia, but developed a transshipment point on Little Darby Island in the Bahamas for purposes of "security . . . [and] police protection" in the 1980's. Devoe hired six to eight employees to work as needed at the island base to unload and repackage drug shipments. There was no interference from Bahamian law enforcement at the Little Darby base "as long as the payments [to officials] were on time."

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[68] Id. at 681.

[69] Information for this case study has been collected from the testimony of Jack Devoe and O. Larry Hall recorded in Organized Crime and Cocaine Trafficking, supra note 12, at 241-261.

Typically operating mid-size turbo-prop aircraft, Devoe pilots departed for Colombia either from the base at Little Darby Island or from Florida airports. Their route took them through the Windward Passage generally to Colombian locations about 60 miles south of the equator. In the early stages of the operation, landings were made at official Colombian airports including the airfields at Santa Marta and Riohacha. In at least one instance, cocaine was openly loaded onto the smuggling aircraft at Riohacha airport. In the early 1980's Devoe shifted landings to clandestine jungle airstrips maintained by the organization's cocaine supplier, Pepe Cabrera. This system streamlined the trafficking process by eliminating transport of the cocaine to an airport. The cocaine shipment was loaded directly onto the aircraft near the strip, where the plane was simultaneously prepared for the return flight.

Generally, Devoe pilots returned to the United States within one day. Their preferred return route extended along the Colombia/Venezuela border, over Haiti, and to the Bahamian base on Little Darby Island. There, cocaine was sealed into the wing fuel tanks of a small aircraft and flown directly into South Florida for delivery to the cartel's representative there.

The Devoe organization's methods for avoiding interdiction between South America and the United States were relatively simple and typical of such smuggling operations. A Devoe pilot learned the frequencies of DEA surveillance aircraft on one occasion by "acting like a helicopter buff" inspecting a DEA Cobra pursuit helicopter parked near the Devoe hangar. Inside the helicopter the pilot copied the frequencies from a clipboard hanging on the instrument panel. As the pilot explained to the Commission:

> By [subsequently] using our scanner and our knowledge of the frequencies in use, we could monitor the activities of DEA planes . . . we could learn not only the activities of the planes, but also go up and check the plane out. By learning what types of aircraft DEA was using we could plan our own strategy more effectively. . .

Devoe also regularly sent "cover-flight" aircraft ahead of the smuggling planes along the trafficking route to monitor DEA and Customs Service surveillance patrols by radio. These planes, which carried no drug cargo, were also used to decoy pursuit aircraft. Once in the United States, Devoe strategy for clearing Customs inspection was to:

> " . . . act normally and file a flight plan, come in and land, and let them inspect the airplane . . . Customs inspectors were far less interested in a lengthy examination of my plane if I came in on a Sunday afternoon in the middle of the televised football game. If the

> Dolphins were playing, that was even
> better."

Using these tactics, Devoe Airlines was able to complete over 100 trafficking flights from Colombia without interference from law enforcement authorities.

Case Study: Barry Seal[70]

Adler Berriman Seal, a former TWA 747 captain, flew cocaine from Colombia to the United States for over seven years during the late 1970's and early 1980's. Seal was recruited as a trafficking pilot by a personal friend who worked for the Colombian cocaine trafficking organization headed by Jorge Ochoa, and eventually worked directly with that organization's leadership.

Initially, Seal flew direct trafficking flights between Louisiana, and Colombia. He piloted a number of different smuggling aircraft, the largest of which was a Vietnam-vintage C-123 capable of holding tons of packaged cocaine. Seal always departed and returned to his Louisiana base at night to reduce chances of interdiction. His typical route took him over the Yucatan Peninsula (not over the more heavily patrolled Yucatan channel) and directly over Central America to the eastern tip of

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[70] Information for this case study has been collected from the testimony of Adler B. Seal recorded in Drug Interdiction Symposium, *supra* note 17.

Honduras, then south to any one of a number of airstrips and airports in north central Colombia.

According to Seal, the Ochoa organization paid Colombian officials bribes of $10,000 to $25,000, per flight for a "window," i.e., a specific time, position and altitude designated for the smuggling flight's penetration of the Colombian air space. If this payment was not made, the aircraft was susceptible to interception by Colombian authorites. Seal generally arrived in Colombia at dawn. His aircraft was loaded with cocaine and refueled within an hour, sometimes within fifteen minutes; and he returned immediately to the United States.

Seal used two fairly simple techniques to avoid interdiction on his return trip to the United States: both were effective because of the heavy helicopter traffic running between the Gulf Coast States and the hundreds of oil rigs located off shore. First, when he reached the middle of the Gulf on his return trip, Seal slowed his aircraft to 110-120 knots and was thus perceived by monitoring radar as a helicopter, not a plane. Secondly, at a distance of about 50 miles off the United States coast, he dropped the aircraft to an altitude of 500-1000 feet in order to comingle with the helicopter traffic, and thereby arouse even less suspicion.

Once in United States airspace, Seal proceeded to prearranged points 40 to 50 miles inland. The points were mapped out in advance with Loran C, a long-range navigational instrument. Further inland, he was generally joined by a helicopter. The two aircraft proceeded to a drop zone, where the helicopter hovered close to the ground. Seal then dropped the load of cocaine from the airplane on a parachute; the helicopter picked up the load from the drop zone and delivered it to waiting automobiles, which eventually moved the cocaine to Miami. Seal proceeded to land his drug-free aircraft at any nearby airport.

Seal was well paid for his services. He claims his top fee for smuggling a kilogram of cocaine was $5,000; an average load was 300 kilograms. His most profitable single load netted him $1.5 million. He was never apprehended in connection with this operation.

Specialized Electronics: The Smuggler's Edge

Like many trafficking pilots today, both Seal and Devoe relied on sophisticated electronic equipment to maintain and secure communications within their organization and to monitor law enforcement surveillance efforts. Most devices used,while expensive, are readily available in the United States, andtrafficking organizations, of course, fund the purchase of any equipment that will facilitate their operations. Seal, for example, once spent over $200,000 cash on communication and surveillance equipment for the Ochoa cocaine trafficking organization here in the United States in a two-day period.[71] Payments for this type of equipment are almost always made in cash - sometimes suitcases full of cash - and are rarely refused.[72]

The communication devices most commonly used by traffickers include state of the art radio equipment, communication scramblers, pocket pagers and encrypting devices.[73] The equipment is used to prevent law enforcement interception of communication between traffickers. A scrambler, for example, attaches to an ordinary radio, and "scrambles" the normal radio frequency with a number of different codes. Only someone with a receiver coded to the particular scrambler frequency can decipher the transmitted message; the transmission is unintelligible to all other receivers. Digital enscryption devices are used to send messages in code, and are often secured so that they can be accessed only after a security number is punched directly into the device. The security feature allows only members of the trafficking organization, who know the access code, to send or decipher coded messages. The speed with which a digital message

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[71] _Id_. at 18.

[72] _Id_. at 37.

[73] A more complete description of this equipment may be found in _Drug Intediction Symposium_, _supra_ note 17, at 25-33.

COCAINE SEIZURES FROM VARIOUS CONVEYANCES 1984

(% of total volume)

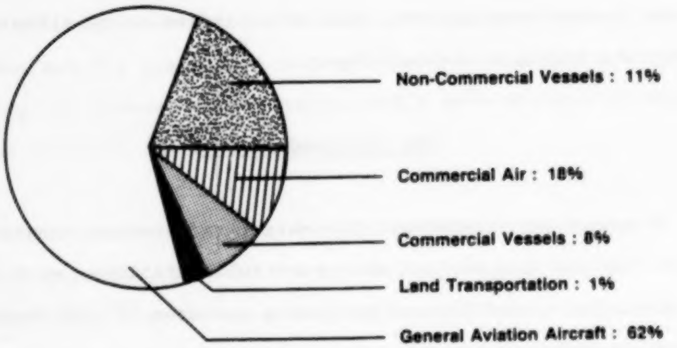

Figure 1

Source: DEA

is transmitted precludes radio tracking, at least by traditional triangulation.

Among the other specialized devices used by traffickers to detect and avoid law enforcement surveillance are radar altimeters, beacon-interrogating digital radar, position tracking equipment and long-range navigation instruments. Latest generation night vision goggles are also frequently used by traffickers flying at low altitudes in darkness. The strap-on goggles intensify any available light by a factor of 50,000 and greatly reduce a smuggler's risk of interdiction by allowing him to fly his aircraft without lights.

The Combined Effort

A number of independent Colombian trafficking organizations, among them the largest and most powerful operations, work in collaboration on individual smuggling ventures.[74] As described by DEA special agent Michael Fredericks, the resulting organization is fluid:

> There is a level of organization that may involve . . . a handful of people at the top . . . Below that level . . . there are many workers who move between one organization and another . . . It seems that in the Colombian organizations, a laboratory operator may work for 1 [specific] trafficker . . . and not

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[74] Organized Crime and Cocaine Trafficking, supra note 12, at 152-153.

> even be aware of it simply because of the levels of insulation.[75]

At the time of the preparation of this report, three men, Pablo Emilio Escobar Gaviria, Jorge Luis Ochoa Vasques, and Carlos Enrique Lehder-Rivas, were reported to control the most significant trafficking organizations in Colombia. Known as "Los Grandes Mafiosos" in the Colombian press, each directs a separate organization, but the organizations work in concert and exchange personnel and equipment in various instances to maximize efficiency and profit.[76] The resulting cartel system affords these traffickers numerous advantages, among them control over the price and the quality of Colombian cocaine, greater access to smuggling and processing equipment, and a wide variety of methods by which to avoid law enforcement.

A chart detailing a temporary cooperative venture based in Medellin, Colombia, between the Pablo Escobar organization and the Jorge Ochoa organization was confiscated from a mid-level trafficker involved in the operation, and was provided to the Commission by the Drug Enforcement Administration (Figure 2). As diagrammed, the Escobar and Ochoa organizations combined and divided the trafficking responsibilities typically completed by a single organization. The same component parts - labor, processing, transportation, finance and enforcement - were

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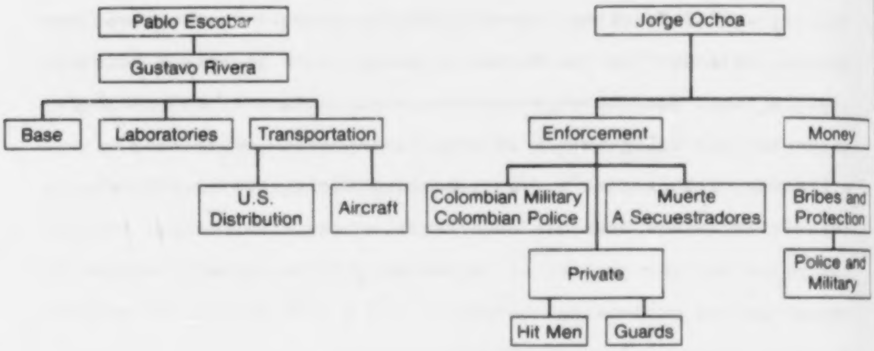
[75] Id. at 240.

[76] Id. at 152-153.

A COCAINE COLLABORATION: THE OCHOA/ESCOBAR JOINT VENTURE


Pablo Escobar
Gustavo Rivera
Base
Laboratories
Transportation
U.S. Distribution
Aircraft
Jorge Ochoa
Enforcement
Money
Colombian Military Colombian Police
Muerte A Secuestradores
Bribes and Protection
Private
Police and Military
Hit Men
Guards

Pablo Escobar
Cocaine Base
Laboratories
Transportation
Aircraft
U.S. Distribution

Jorge Ochoa
Enforcement
Protection
Hit Men
Private Guards
MAS (Muerte A Secuestradores)
Colombia Military and Police
Money
Bribes
Protection

FIGURE 2

carried over from the individual organizations, with the Escobar group taking responsibility for production activities, and the Ochoa group handling enforcement and finances.

Colombia Cracks Down

Through the 1970's cocaine traffickers operated throughout Colombia with little interference, and in fact with considerable support from the Colombian government. The situation changed in April 1984 when drug traffickers assassinated Colombia's Minister of Justice, Rodrigo Lara Bonilla.[77] Lara'sassassination came two months after he authorized a raid on a major cocaine processing plant known as Tranquilandia in Southeastern Colombia's Llanos region, which resulted in the destruction of over $1 billion worth of cocaine.[78] Following Lara's assassination, Colombian President Belisario Betancur Cuartas declared a "war without quarter" on all drug smugglers and signed extradition orders for a number of known major traffickers. President Bentancur also shifted trafficking trials to Colombia's military courts, increased eradication and interdiction efforts within his country, and increased regulation of those chemicals necessary for processing coca base into cocaine.[79]

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[77] Rodrigo Lara Bonilla was machine-gunned to death on a residential street in Bogata in a contract murder apparently financed by narcotics traffickers. Id. at 579.

[78] Approximately 10 metric tons of cocaine HCl and cocaine base, and 10,000 barrels of chemicals were seized in the raid on Tranquilandia. Colombian authorities seized a total of 16 metric tons of cocaine base and cocaine HCL in 1984, compared to 2.5 metric tons in 1983. DEA Special Report, supra note 5, at 7.

President Betancur's actions have had important ramifications both for traffickers and for other South and Central American governments. When the intensified Colombian programs became effective, a number of major traffickers, among them Escobar, Lehder and Ochoa, went into hiding and moved their processing operations to neighboring countries.[80] In 1984 processing laboratories as well as stockpiles of essential conversion chemicals were discovered and destroyed in Panama, Venezuela, Mexico and Canada. Evidence suggests that significant processing activity is now also taking place in Nicaragua and Brazil.[81] The Colombian regulation of ether and other essential precursor chemicals has resulted in an increase in cocaine processing activity in the United States: 21 processing laboratories were discovered and destroyed in South Florida in 1984 as opposed to 11 in 1983.[82]

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[79] To date, Colombia has extradited seven traffickers to the United States; two have been convicted in District Court proceedings. (Information provided to the President's Commission on Organized Crime by the U.S. Department of Justice.) Prior to Lara Bonilla's murder, the Colombian President had exercised his veto power in the treaty providing extradition of Colomiban narcotics traffickers, to the United States. Organized Crime and Cocaine Trafficking, supra note at 12, at 557-558.

[80] Id. at 556.

[81] DEA Special Report, supra note 5, at 9.

[82] Narcotics Intelligence Estimate 1984, supra note 10, at 32.

In March 1985 despite his status as a fugitive, Carlos Lehder appeared on Colombian television, filmed live from a jungle clearing by a Spanish film crew.[83] Lehder used the television opportunity, which he had arranged, to appeal to the Colombian revolutionary organizations to participate in the "cocaine bonanza . . . the arm of the struggle against America." He also characterized cocaine as the "Achilles heel of American imperialism." Lehder disappeared into the jungle after the interview and remains at large, presumably in the remote jungles of Colombia.[84]

HEROIN TRAFFICKING

Traditional Organized Crime: La Cosa Nostra and the French Connection

Heroin trafficking in this country first became big business in the 1920s, when organized criminals based in New York City's Jewish community began to control the importation and distribution of the drug.[85] By the late 1930's, La Cosa Nostra joined the Jewish groups in the heroin enterprise, importing the drug from France, Asia the Mideast. When these sources became inaccessible during World War II, Mexico became the major U.S. heroin supplier.[86]

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[83] DEA Special Report, supra note 5, at 9.

[84] Drug Interdiction Symposium, supra note 17, at 24. According to Symposium witness and former trafficking pilot Adler B. Seal: [Lehder], an internationally known drug trafficker, notorious for his brashness, has become a nervous man due to this Colombian law enforcement crackdown.... He now lives under continuous concern of apprehension by law enforcement authorities.

[85] House Select Comm. on Narcotics Abuse and Control, Congressional

After the war, La Cosa Nostra took control of America's heroin market, this time importing most of its drug supply from Italian refineries. When the Italian government banned the manufacture of heroin in the early 1950s, La Cosa Nostra traffickers were forced to look to other sources.[87] A new system was quickly devised, by which Turkish morphine base was refined to heroin in Marseilles, then shipped to Montreal or Sicily. Organized crime groups located in these transshipment points then sent the heroin directly to the United States. This arrangement, popularly known as the "French Connection," allowed La Cosa Nostra to monopolize the heroin trade from the 1980's through the early 1970's.[88] During the peak French Connection years, the LCN controlled an estimated 95 percent of all of the heroin entering New York City, as well as most of the heroin distributed throughout the United States.[89]

Resource Guide to the Federal Effort on Narcotics Abuse and Control, 1969-1976 95th Cong, 2nd Sess. 288 (1978).

[86] Id.

[87] Organized Crime and Illicit Traffic in Narcotics: Hearings before the Permanent Subcomm. on Investigations of the Senate Comm. on Governmental Affairs, 98th Cong., 1st and 2nd Sess. 163 (1963-1964).

[88] Id. at 885.

[89] The Heroin Trail, supra note 3, at 42.

The La Cosa Nostra heroin monopoly lasted until 1972, when under diplomatic pressure from the United States, Turkey banned opium production and the French Connection collapsed.[90] Amsterdam replaced Marseilles as the center of European heroin traffic, and Chicago, Los Angeles and Miami joined New York City as major U.S. distribution centers. Other trafficking groups rose to compete with the LCN for heroin dollars in New York City and throughout the country.[91]

Source Country Traffickers: Mexico

In the five years after the collapse of the French Connection, Mexico became the major source of U.S. heroin.[92] Mexico's rise was logical: the country contains extensive regions suitable for both opium cultivation and refining and shares a lightly guarded 2,000 mile border with the United States. Mexicans could manufacture heroin and smuggle it into the United States with little risk of detection. This simplified trafficking system resulted in increased Mexican heroin availabilty in the United States.

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[90] The Global Connection: Heroin Entrepreneurs: Hearings before the Subcomm. to Investigate Juvenile Delinquency of the Senate Comm. on the Judiciary, 94th Cong., 2nd Sess. 403 (1976).

[91] Illegal Narcotics Profits: Hearings before the Permanent Subcomm. on Investigations of the Senate Comm. on Governmental Affairs, 96th Cong., 1st Sess. 891 (1979).

[92] Organized Crime and Heroin Trafficking, supra note 2, at 408-409.

For generations, opium has been grown in remote areas of Mexico's Sierra Madre Mountain states of Durango, Sinaloa and Chihuahua.[93] Culiacan, on the western side of the Sierra Madre, and Durango to the east, developed in the 1970s as major production centers for heroin destined for U.S. distribution. Trafficking organizations are now entrenched in these areas, and are involved in all phases of the heroin manufacture and distribution process. Opium gum is collected by peasants in isolated mountain areas and is transported by mule or carried by hand to nearby mountain villages. Typically, village middlemen sell the opium to a drug trafficking organization boss, who moves drugs to an organization-held laboratory for processing to heroin. Mexican couriers then transport the heroin to the members of the trafficking organization in the United States.[94] The major Mexican heroin trafficking organizations supplying heroin to America are generally extended familial organizations, but loyal workers sometimes are given status as "quasi-family" members of the groups. The organizations work to eliminate competition and to control as completely as possible all aspects of the heroin trade. Members act as opium cultivators, village middlemen, and heroin brokers and distributors. In the United States, the organization typically controls distribution from the wholesaler to the retail distributor, but has little or no involvement in street distribution. This is seen as an unnecessarily risky and low-profit aspect of the business, and is left to outsiders.[95]

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[93] Id. at 332.

[94] Id. at 335-336. Some smaller individual or family operations in Mexico normally control their trafficking activity from collection of the opium gum to the wholesale distribution in the United States.

Violence is an integral part of Mexican trafficking. Organization members provide cultivators with semi-automatic and automatic weapons to protect their crops; weapons are used throughout the trafficking system to eliminate informants, and to intimidate competitors and law enforcement officials.[96] Corruption of Mexican police officials is well-documented and is essential to the smooth operation of the Mexican trafficking organizations.[97]

In 1984, Mexican traffickers provided 32 percent share of the heroin consumed in the United States. The figure is expected to to rise over the next several years due to the continued devaluation of the peso and improved agricultural technology.[98]

Case Study: The Herrera Family

Since the early 1970s the Jamie Herrera-Navarres organization has been a major heroin smuggling power operative between Mexico and the United States.[99] The Herrera organization is a confederation of families related by blood and marriage, although some non-family members have been accepted into the group over time. Older family members process opium and morphine base, younger members handle the drug sales and shipments in Mexico and in the United States. The Herrera organization is now estimated to have 3,000 to 5,000 members, a significant portion of whom are naturalized American citizens and illegal aliens residing in this country.

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[95] Id.

[96] Id.

[97] Id.

[98] Narcotics Intelligence Estimate 1984, supra note 10, at 54.

Despite the 1978 conviction and incarceration of Jamie Herrera, and several key family members, the organization remains active.[100] In July 1985, 135 persons in the United States, comprising eight separate Herrera-related distribution rings, were indicted in Chicago on drug trafficking charges. These Herrera groups allegedly trafficked heroin and marijuana from Mexico through El Paso to a middleman in Texas. From Texas, the drugs were shipped to Chicago, then distributed throughout the country. This Herrera enterprise, only a small fragment of the total organization, is estimated to have had gross annual profits of over $200 million. The arrests are expected to have a significant effect on the Herrera organization, if only on a temporary basis.[101]

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[99] Investigation of Narcotics Trafficking Proceeds (Chicago, Illinois): Hearings before the House Select Comm. on Narcotics Abuse and Control, 95th Cong. 1st Sess. 4, 16 (1977).

[100] Information provided to President's Commission on Organized Crime by Drug Enforcement Administration.

Source Country Traffickers: Southeast Asia

Mexican heroin production decreased in the late 1970's due to enforcement, eradication and poor weather conditions. By 1980, Mexico provided only 25 percent of the heroin consumed in the United Stated, down from a peak level of 80 percent in 1975. At the same time, heroin production in Southeast Asia accelerated dramatically.[102] By 1976, the "Golden Triangle" of Burma, Thailand and Laos supplied more than a third of the heroin consumed in the United States; Mexico supplied the remainder.[103] Golden Triangle heroin first gained popularity with American servicemen stationed in Southeast Asia during the Vietnam War because it was readily available, inexpensive, and considerably more pure than Mexican heroin. After the war, Golden Triangle heroin was exported to the United States in increasing amounts.[104]

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[101] Id.

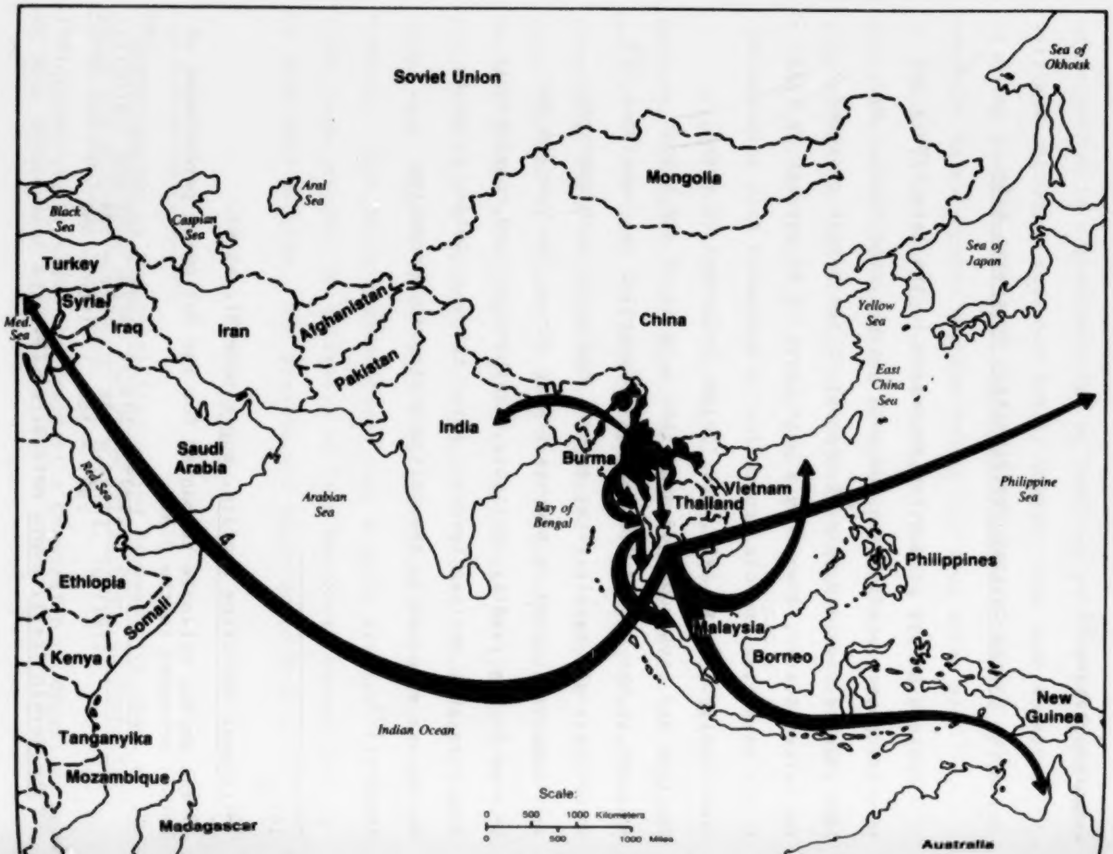
[102] Illegal Narcotics Profits, supra note 91, at 63.

[103] The Golden Triangle accounted for the following percentages of heroin consumed in the U.S.:

1975 - 13% 1978 - 38%
1976 - 33% 1979 - 38%
1977 - 36% 1980 - 36%

[104] The Heroin Trail, supra note 3, at 10.

DRUG TRAFFICKING ROUTES: SOUTHEAST ASIA


Soviet Union
Sea of Okhotsk
Mongolia
Aral Sea
Black Sea
Caspian Sea
Sea of Japan
Turkey
Syria
Iraq
Iran
Afghanistan
Pakistan
China
Yellow Sea
Med. Sea
East China Sea
India
Saudi Arabia
Burma
Vietnam
Thailand
Red Sea
Arabian Sea
Bay of Bengal
Philippine Sea
Philippines
Ethiopia
Somali
Kenya
Malaysia
Borneo
New Guinea
Tanganyika
Indian Ocean
Mozambique
Madagascar
Scale:
0 500 1000 Kilometers
0 500 1000 Miles
Australia

Nearly 90 percent of the Golden Triangle opium is currently produced in Burma. Two-thirds of this crop is produced in the northeast area of the country, where control is shared by the Burmese Communist Party (BCP) and the Shan United Army (SUA).[105] Both groups were at one time political insurgent organizations but are now almost entirely devoted to obtaining profit for the production, smuggling and sale of heroin base.[106] They derive considerable income from "taxes" and fees they levy on opium growers and heroin producers and traffickers. This income is used to purchase weapons, to be utilized not in furtherance of political goals, but for protection of each group's narcotics enterprise. Traditionally, the two groups have coexisted peacefully: the BCP has acted as the major opium supplier in Southeast Asia and the SUA has been the area's major refiner and trafficker.[107] The BCP has recently become involved in refining and distribution activities, and the organizations are currently in conflict.[108]

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[105] Narcotics Intelligence Estimate 1983, supra note 16, at 43.

[106] Drugs and Terrorism 1984: Hearings before the Subcomm. on Alcoholism and Drug Abuse of the Senate Comm. Labor and Human Resources, 98th Cong., 2d. Sess. 35-36 (1984). Sources at DEA, however, maintain that these organizations are still primarily insurgent groups, and that they use income from drug production to finance military and political activities against the government of Burma.

[107] International Narcotics Trafficking: Hearings before the Permanent Subcomm. on Investigations of the Senate Comm. on Governmental Affairs, 97th Cong., 1st Sess. 419-421 (1981).

[108] Drugs and Terrorism 1984, supra note 106, at 35.

Opium and morphine base produced in northeastern Burma transported by horse and donkey caravans to refineries along the Thailand-Burma border for conversion to heroin and heroin base. Most of the finished products are shipped across the border into various towns in North Thailand and down to Bangkok for further distribution to international markets.[109] In the past major ethnic Chinese traffickers in Bangkok have controlled much of the foreign sales and movement of Southeast Asian heroin from Thailand, but a combination of law enforcement pressure, publicity and a regional drought has significantly reduced their role.[110] As a consequence, many less-predominant traffickers in Bangkok and other parts of Thailand now control smaller quantities of the heroin going to international markets.[111]

Although Thailand is the primary transit center for Southeast Asian heroin destined for international markets, alternate trafficking routes are increasingly utilized as a result of Thailand's sustained enforcement actions. Some opium, morphine base, and heroin base are moved South through Burma to southern Thailand and Malaysia for conversion to heroin in laboratories along the Thailand/Malaysia border.[112] Refined heroin is also trafficked from Burma to India, then to the West.[113]

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[109] International Narcotics Trafficking, supra note 107, at 79-82.

[110] Narcotics Intelligence Estimate 1983, supra note 16, at 44.

[111] Id.

[112] Id.

Heroin from Southeast Asia is most frequently brought to the United States by couriers, typically Thai and U.S. nationals and Hong Kong Chinese, traveling on commercial airlines.[114] California and Hawaii are the primary U.S. entry points for Golden Triangle heroin, but small percentages of the drug are trafficked into New York City and Washington D.C.[115] While Southeast Asian groups have had success in trafficking heroin to the United States, they initially had difficulty arranging street level distribution.[116] However, with the incarceration of Asian traffickers in American prisons during the 1970's, contacts between Asian and American prisoners developed. These contacts have allowed Southeast Asian traffickers access to individuals and organizations distributing heroin at the retail level.[117]

Chinese organized crime groups, known as Triads, located primarily in Hong Kong, and their U.S. counterparts, Tongs, are positioned to participate in Southeast Asian heroin traffic, but the extent of their activity in these enterprises is not known at the present time.[118] These organizations provide Asians direct access to criminal groups in the United States, and could potentially assume a significant role in U.S. heroin trafficking activities. Currently, there are major Triad organizations in New York, Los Angeles, Seattle, San Francisco, and Toronto.[119]

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[113] Id.

[114] Drug Enforcement Administration, Seizures of Southeast Asian Heroin in the United States 1984, at 4,6.

[115] Drug Enforcement Administration, Office of Intelligence, Seizures of Southeast Asian Heroin in the United States 6-7 (1984).

[116] Narcotics Intelligence Estimate 1983, supra note 16 at 45.

[117] Seizures of Southeast of South Asian Heroin in the United States, supra note 115, at 5.

Source Country Traffickers: Southwest Asia

Opium production in Southeast Asia was significantly reduced in the late 1970's and early 1980's due to a prolonged drought.[120] This decrease, along with the unstable political climate in the region caused by the fall of the ruling governments in South Vietnam and Laos, resulted in a reduction of Southeast Asian heroin exports to the United States.[121] During this period, opium production in the Golden Crescent area of Southwest Asia, comprising the common border regions of Pakistan, Afghanistan and Iran, markedly increased.[122] In 1979 the Golden

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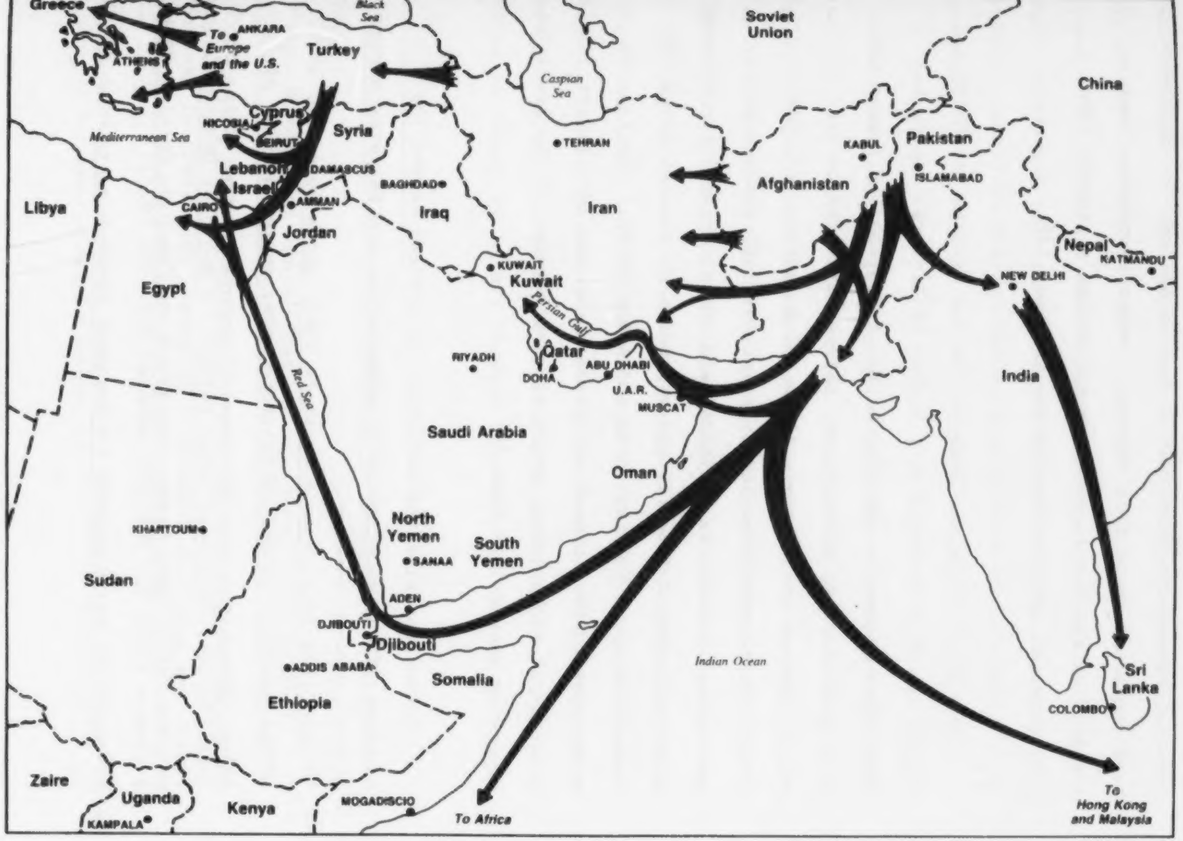
[118] Hearing III: Organized Crime of Asian Origin, Before the President's Commission on Organized Crime 9-23 (1984).

[119] Id.

[120] National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate 1980, at 32.

[121] Golden Triangle heroin exports to the United States decreased from 2.0 metric tons, or 37 percent of the total U.S. supply, to 0.5 to 0.7 metric tons or a 15 percent share of the U.S. supply, in 1980. Id. at 40.

[122] Narcotics Intelligence Estimate 1983, supra note 16, at 38.


Greece
Black Sea
Soviet Union
China
To Europe and the U.S.
ANKARA
ATHENS
Turkey
Caspian Sea
Cyprus
NICOSIA
BEIRUT
Syria
TEHRAN
KABUL
Pakistan
ISLAMABAD
Mediterranean Sea
Lebanon
DAMASCUS
BAGHDAD
Afghanistan
Israel
AMMAN
Iraq
Iran
Libya
CAIRO
Jordan
Nepal
KATMANDU
NEW DELHI
KUWAIT
Kuwait
Egypt
Persian Gulf
RIYADH
Qatar
DOHA
ABU DHABI
U.A.R.
MUSCAT
India
Red Sea
Saudi Arabia
Oman
North Yemen
SANAA
South Yemen
KHARTOUM
Sudan
ADEN
DJIBOUTI
Djibouti
ADDIS ABABA
Somalia
Indian Ocean
Sri Lanka
COLOMBO
Ethiopia
Zaire
Uganda
KAMPALA
Kenya
MOGADISCIO
To Africa
To Hong Kong and Malaysia

Source: DEA

Crescent became the primary U.S. heroin source.[123] Southwest Asia continues to be this country's major supplier: over one-half of the heroin entering the United States in 1984 originated as opium in the Golden Crescent.[124]

The surge in Golden Crescent heroin exports to the United States can be attributed to a number of factors. Opium has always been grown in the region, but traditionally, opium grown in Afghanistan and Pakistan was shipped directly to Iran to supply that country's one million opium addicts.[125] The situation changed dramatically after the 1980 fundamentalist revolution in Iran, as political and social instability allowed greatly increased domestic opium production and curtailed the demand for opium from Pakistan and Afghanistan. The Iranian market was further closed to outsiders by the 1979 Soviet invasion of Afghanistan, which blocked several of the traditional smuggling routes into Iran.[126]

Concurrent with the reduction in Iranian demand for non-domestic opium, growers in Afghanistan and Pakistan harvested ecord crops.[127] The opium crop in Pakistan alone increased by 00 percent between 1974-1979, from 200 to 800 metric tons.[128] onsequently Pakistani and Afghan traffickers learned to refine heir opium into heroin, and sought new markets for their roduct, mainly in Western Europe and the and the United tates.[129]

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[123] Narcotics Intelligence Estimate 1980, supra note 120, at 22.

[124] Narcotics Intelligence Estimate 1984, supra note 10, at 7.

[125] See generally, Drug Enforcement Administration, Office of Intelligence, Southwest Asian Heroin: A Regional Update (January 1981); see also U.S. Library of Congress, Congressional Research Service, Asian Drug Trade: Implications for U.S. Foreign Policy 3 (Issue Brief No. IB83138, updated Nov. 14, 1983).

[126] Southwest Asian Heroin: A Regional Update, supra note 125, at 10.

Southwest Asian opiun is grown in remote mountain areas and enerally is transported to crude laboratories in the akistan/Afghanistan border areas.[130] Most of the refineries re located in Pakistan's Northwest Frontier Province or fghanistan's Nangarhai Province; many are clustered in the area f the Khyber Pass.[131] Refined heroin leaves Pakistan via everal routes: through Baluchistan to Iran and beyond; by sea hrough Karachi to Bombay and on to the Arabian Gulf States or urope; overland through the Lahore area enroute to transit oints in India; or by air through Islamabad or Karachi.[132]

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[27] Narcotics Intelligence Estimate 1980, supra note 120, at 22.

[28] Id.

[29] Drug Enforcement Administration, Southwest Asian Heroin: akistan, Afghanistan and Iran, Drug Enforcement 3 (Summer 1981).

[30] Asian Drug Trade: Implications for U.S. Foreign Policy, supra ote 125, at 3.

[31] Southwest Asian Heroin: A Regional Update, supra note 125, at 6.

[32] Information provided to President's Commission on Organized Crime y Drug Enforcement Administration.

Southwest Asian heroin is typically smuggled into the United States concealed in legitimate shipments of air and sea cargo, such as textiles or sports equipment manufactured by Pakistani companies, or it is carried by air couriers.[133] Couriers generally travel on commercial carriers, and many have connections with airline crews and station managers. The international postal system is also commonly used to ship heroin from Pakistan directly to the United States in sealed newspapers and periodicals.[134]

Golden Crescent heroin is trafficked into the United States by a variety of narcotics organizations. The following is an overview of some of the more significant groups involved in the Southwest Asian heroin trade.

Pakistani Traffickers

Pakistani nationals are responsible for trafficking a significant percentage of Golden Crescent heroin in the United States, especially in the Northeast.[135] The Pakistanis do not have a sophisticated retail sales network in the United States and typically rely on family or Pakistani friends in this country to distribute drugs.[136] They also have relied on black trafficking organizations in Los Angeles, Detroit and New York, and with Italian organized crime in New York City. One Pakistani distribution system was described in testimony before thisCommission by a Pakistani national who was incarcerated for his involvement in a distribution network. The Commission witness has relatives living both in Lahore, Pakistan, and in the United States; he was a resident of Houston, Texas and was employed as an engineer while involved in heroin trafficking. In the heroin operation, a family member in Lahore sent couriers to JFK airport in New York with heroin concealed in false-bottom luggage. From JFK, the couriers traveled "in transit" to LaGuardia, then on to Toronto. Because of their "in transit" status, Customs Service officials did not search the travelers in the United States, and Canadian Customs inspection was not difficult to clear.[137]

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[133] Organized Crime and Heroin Trafficking, supra note 2, at 462.

[134] Drug Enforcement Administration, Heroin Signature Program 1983, at 11.

[135] Id. at 10.

In Canada, traffickers often held a particular heroin shipment for three to six months, until appropriate distribution contacts were established and it was certain that law enforcement officials were not aware of the shipment. At that time, distribution contacts traveled by automobile to Toronto, picked up a portion or all of the heroin shipment, and drove the heroin into the United States without Customs interdiction. This particular network supplied heroin to Seattle, Houston, San Francisco, New York and Las Vegas. The contacts were all related by blood or marriage.[138]

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[136] Organized Crime and Heroin Trafficking, supra note 2 at 280.

[137] Id. at 282.

Pakistanis also rely on the international postal system to move drugs from Southwest Asia to the United States.[139] In July 1983, for example, U.S. Customs officials at JFK Airport seized one kilogram of heroin concealed in rolled newspapers destined for Pakistani nationals residing in New York. The package had been sent from the United Arab Emirates. Two other packages, each containing one-half kilogram of heroin, were mailed to Berkeley, California from the same source. Rolled newspapers and magazines can conceal up to one kilogram of heroin and are generally sealed in plastic. Drugs are also sent through the mail concealed in shipments of textiles, clothing and other durable goods.[140]

Lebanese Traffickers

A portion of Golden Crescent heroin passes through Lebanon en route to the United States, thus affording Lebanese nationals an opportunity to become involved in the trafficking activity. A gnificant percentage of the heroin exported from Lebanon leaves a Damascus International Airport.[141]

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[138] Id.

[139] DEA Heroin Signature Program, supra note 134, at 10.

[140] Organized Crime and Heroin Trafficking, supra note 2 at 462.

In the United States, trafficking by Lebanese nationals is pecially prevalent in the Northeast.[142] In one network, on-Lebanese couriers primarily from Canada traveled to Damascus d Beirut to pick up heroin which they then transported to ouston, Detroit and New York via commercial carrier. Heroin was oncealed in false-bottom luggage and inside photo albums. The eroin was transferred to Lebanese nationals living in Toronto d Ontario, Canada, and in various cities in the United States. ome of the money generated from the sale of this heroin was aundered in banks in Pittsburgh, Pennsylvania.

India

A proportion of the heroin traditionally distributed abroad rough the Pakistan cities of Karachi, Peshawar and Quetta is ow being shipped through Bombay and New Dehli.[143] Traffickers muggle Southwest Asian heroin into India along the Indo-Pakistan order and transport it overland to the Indian cities; Southeast sian heroin is brought into Bombay and Calcutta by sea and

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[41] DEA Heroin Signature Program, supra note 134, at 12; Narcotics ntelligence Estimate 1983, supra note 16, at 41.

[42] Narcotics Intelligence Estimate 1983, supra, note 16, at 41.

[43] Information supplied to President's Commission on Organized Crime y Drug Enforcement Administration.

overland routes.[144] Bombay, Calcutta and New Dehli are now major staging, shipping and trafficking centers for heroin smuggled to the West. Trafficking activity is frequent at Perlane Airport in Dehli and at Bombay's Sahar International Airport, and Indian harbors and airports are used by Pakistani, Afghan and Indian traffickers as points of embarkation to Western destinations.[145]

West Africa

In the past three years, West African countries, especially Nigeria, have been documented as transshipments centers for Golden Crescent heroin.[146] Nigerian couriers based in Lagos travel to Pakistan to obtain heroin, then continue on commercial flights to their final destinations, or return to Nigeria to repackage the narcotics into smaller amounts for smuggling to the West.[147]

A number of loosely associated Nigerian heroin trafficking organizations have connections both with suppliers in Pakistan and with retailers in Western Europe and the United States.[148]

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[144] Id.

[145] Id.

[146] Organized Crime and Heroin Trafficking, supra note 2, at 318.

[147] Id.

[148] Id. at 319-320.

ically, Nigerian couriers travel directly to Karachi on mercial aircraft and purchase heroin in that city, but some riers continue to Peshawar to make their purchases.[149] riers return to Nigeria transitting other countries in Africa Europe.[150] A different group of couriers, usually students poor residents of Lagos, traffic the drugs to Europe or the ited States.[151]

Couriers typically enter the United States directly through K airport in New York although in some cases, they come to this untry via cities in Europe and Canada.[152] Drugs are concealed body cavities, and in false-bottom suitcases.[153]

After the heroin arrives in the United States, it is sold ly to one or two American distributors in a given area.[154] stribution networks are most active in New York City and shington, D.C. and are operative in Los Angeles, Houston and ston.[155] DEA reports that individuals in nearly every mmunity of Nigerian nationals in the United States has some

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[49] *Id.*

[50] *Id.*

[51] *Id.* at 320.

[52] *Id.*

[53] *DEA Heroin Signature Program*, *supra* note 134, at 17.

[54] *Organized Crime and Heroin Trafficking*, *supra* note 2, at 474.

[55] *Id.* at 475.

link to heroin traffickers and couriers.[156] Profits from heroin sales are laundered through banks in the United States in Britain.[157]

The Post-French Connection LCN

Traditional organized crime continues to play a significant role in this country's heroin trade through the 1980's.[158] The LCN's long established connections with criminal organizations in Sicily facilitate the movement of heroin from Europe to the United States, and while Sicily is no longer a major refinery for heroin, the country is a major transshipment center for Southwest and Southeast Asian heroin.[159] Sicilian organizations supply LCN affiliates with heroin; LCN networks either distribute the drug themselves or sell it in large quantities to major distributors.

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[156] Id.

[157] Id. at 476-477.

[158] According to the President's Commission on Organized Crime survey of local law enforcement officials, La Cosa Nostra currently controls 15.9 percent of all organized crime heroin trafficking. See appendix B of this report.

[159] Narcotics Intelligence Estimate 1983, supra note 16, at 41.

The LCN As A Supplier: The Nicky Barnes Operation

Black criminal groups have controlled some percentage of heroin traffic in New York City since the 1940's.[160] Their influence increased significantly in the early 1970s, after the French Connection.[161] The first major independent black trafficking organization, a group of over one hundred distributors and couriers, was headed by Charles Green. The Green organization imported heroin and cocaine from South America and distributed the drugs throughout New York City during the late 1960's.[162] When Green was arrested in 1970, control of this heroin network passed to Frank Matthews. Matthews was brought in to the heroin business by Louis Cirillo, a major LCN associate, and was continually supplied with LCN heroin.[163]

Leroy "Nicky" Barnes succeeded Matthews in 1971. Under his leadership, the organization controlled heroin sales and manufacture throughout New York State into Canada and Pennsylvania.[164] The Barnes operation was well-organized and lucrative. By 1976, Barnes had at least seven major lieutenants under his direction; each of them controlled a dozen mid-level distributors, who in turn supplied up to forty street-level retailers. Barnes at all times remained well insulated from the daily trafficking activities, and maintained a wealthy lifestyle. He owned five homes, a Mercedes, a Maserati, several Lincolns, Cadillacs and Thunderbirds, and hundreds of suits and coats.[165] He estimates that his total trafficking income was at least several million dollars.[166]

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[160] G.R. Blakey, Organized Crime & Narcotics, at 234.

[161] Id. at 293.

[162] Id. at 295.

[163] Id.

[164] Brief for the United States at 8-9, United States v. Thomas, No. 84-1010 (2d Cir.).

Barnes joined with six other major New York dealers to form a heroin cartel called the "Council" in the mid 1970's. Members of the Council pooled funds to purchase multi-kilo amounts of heroin, worked to ensure a consistent supply of the drug in their distribution area, combined their "cutting" and distribution networks in certain cases, and often used a common sources for diluents, weapons, automobiles and other resources.[167] The Council had specific "departments" which arranged legal services, security and enforcement, and financial services including money laundering.[168]

Barnes' most significant source of heroin, to whom he directed other Council members, was LCN associate "Matty" Madonna. Despite Barnes' assertion and belief that the Council worked mpletely independently of the Mafia, through the Madonna nnection, LCN heroin was prevalent in Harlem traffic from 1972 1976.[169]

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[165] See Organized Crime and Heroin Trafficking, supra note 2, at 10-35.

[166] U.S. v. Kenneth Thomas et. al, supra note 164.

[167] Organized Crime and Heroin Trafficking, supra note 2, at 197-198.

[168] Id.

The Asian - LCN Links[170]

La Cosa Nostra actively seeks out Asian nationals as nnections to heroin sources in Southeast Asia. In testimony fore the President's Commission on organized crime, Franklin iu, a veteran Hong Kong clothier, explained how he was recruited a courier for a New York La Cosa Nostra family involved in roin trafficking. Liu, who held a legitimate four year siness visa which allowed him to travel without restriction, s first contacted by Antonio Turano, a reputed member of the icilian Mafia, in connection with Turano's money laundering erations. In one instance, Turano brought Liu a suitcase illed with $400,000 cash, and requested that Liu wire the money a bank in Zurich. Turano met with Liu in Milan in the course the operation to make certain that the money had been wired ithout incident.

At a later date, after Liu had successfully participated in number of money laundering operations, Turano asked Liu if he

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[69] Id.

[70] Information for this case study was compiled from testimony of ranklin Liu before the President's Commission on Organized rime. Organized Crime of Asian Origin, supra note 118, at 123.

had any connections to drug traffickers in the Far East; Liu did not. Turano arranged a connection, and agreed to pay Liu $5,000 for every kilo of heroin he trafficked into the United States. Liu was subsequently contacted by Turano's agent, a Thai woman, and arranged to meet her at a hotel in New York City. When they met, each held half of a one dollar bill given to them by Turano as identification. Liu gave the woman his car keys; the next day she returned the car with heroin in the trunk and requested a payment of $40,000 in cash and a $60,000 bank check. When Liu went to collect the money from Turano, he found that Turano had been arrested. Liu was subsequently arrested and convicted on charges of conspiracy to import heroin in connection with this case.

The Pizza Connection[171]

During the late 1970's and early 1980's members of La Cosa Nostra in the United States allegedly cooperated with the Sicilian Mafia in a drug trafficking conspiracy which resulted in the importation of heroin worth over $1.6 billion into the United States. In April, 1984, 38 individuals were indicted on charges related to the trafficking operation, popularly known as the "Pizza Connection." The network that developed to facilitate the traffic in this enterprise was reputedly one of the largest heroin importation operations in history, and used pizza parlors throughout this country to distribute heroin smuggled from Southeast and Southwest Asia via Sicily to the United States. Additional heroin that was trafficked through this system was produced in laboratories operating in Sicily.

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[171] Information for this case study was compiled from trial transcripts and the indictment in United States v. Catalano, (S.N.Y.D. April 3, 1984).

According to the indictment in the case, the "Pizza Connection" heroin network relied upon a faction of the New York Bonanno organized crime family headed by Salvatore Catalano to distribute the heroin in this country. In turn, the heroin business of this Bonanno crime faction was tied directly to organized criminal groups in Sicily, the rest of Italy, Switzerland, Spain, and Brazil. Direct evidence of the existence of the network was first obtained in 1980 when couriers were observed transferring enormous amounts of cash through investment houses and banks in New York city to Italy and Switzerland. Tens of millions of dollars derived from heroin sales in this country were transferred overseas in this fashion, apparently in violation of the Bank Secrecy Act.

Investigations related to the "Pizza Connection" case have revealed that factions of the Sicilian Mafia operate in the United States independently of the American La Cosa Nostra. While the two groups apparently cooperate on certain ventures such as the "Pizza Connection" heroin importation operations, they appear to be distinct and separate organizations under different leadership.

MARIJUANA TRAFFICKING

Marijuana trafficking presents both unique opportunities and significant disadvantages for the smugglers who provide the drug to American consumers. The volume of demand for marijuana precludes domination of the market by any group of traffickers and allows a constant influx of small-scale and mid-size operators as limited suppliers. These smaller groups are in large part able to enter the market because of marijuana's comparatively low wholesale cost.[172] While an investment of tens of thousands of dollars is required for entry into the U.S. heroin or cocaine traffic, a capital investment of less than $10,000 is generally sufficient in the marijuana trade. Finally, although marijuana is supplied to U.S. consumers by growers in Colombia, Mexico and Jamaica, nearly one-sixth of the U.S. supply is domestically grown. Because significant amounts of the drug are cultivated in all 50 States, American traffickers need not travel to a foreign source country for a marijuana supply.

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[172] According to 1984 estimates, the cost of a wholesale pound of Colombian commercial grade marijuana was $400-$600; a wholesale kilogram of cocaine cost $40,600 - $60,000; a wholesale kilogram of heroin cost $215,000. Narcotics Intelligence Estimate 1984, *supra* note 10, at 12, 24, 49.

While the barriers to entry in the U.S. marijuana traffic are relatively low, marijuana sales generate a small profit in comparison to other illicit drugs. This is primarily because marijuana, unlike heroin or cocaine, in not diluted or "cut" in the intermediate phases of trafficking, but is sold in much the same form at the wholesale and retail levels. Marijuana is bulky and difficult to transport in high-profit quantity: the profit generated from the retail sale of 700 pounds of commercial Colombian marijuana could most probably be equalled from the retail sale of one kilogram of diluted cocaine.[173] Finally, trafficking marijuana implies increased risks of interdiction because the bulk of the drug makes it most visible to law enforcement authorities.[174]

Despite the relative ease with which small-scale traffickers can enter the marijuana market, only large criminal organizations have the resources and connections necessary to generate large profits from marijuana trafficking. Many of these groups deal in other drugs in addition to marijuana, and are organized to facilitate the movement of any drug to the United States with minimal interference from law enforcement authorities. Their size allows group control of all aspects of a trafficking venture from cultivation through the wholesale transaction, thus eliminating middlemen, decreasing costs and maximizing profit. Unlike smaller operations, the major trafficking groups have the capital required to purchase the large vessels, trucks, or planes necessary for smuggling high profit multi-ton quantities of marijuana. A final advantage is their willingness to use violence and corruption, the tools traditionally associated with organized crime, to ensure the success of smuggling ventures.[175]

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[173] One kilogram of pure cocaine currently sells for $40,000 to $50,000 at wholesale. Cut to 35 percent purity and sold at retail for the current price of $100,000 to $120,000, that kilogram would generate $300,000 to $360,000. 700 pounds of Commercial Colombian marijuana sells at wholesale for $400 to $600 per pound and at $55 to $75 per ounce at retail. Id. at 12, 24.

[174] In 1984, 1,760 metric tons of marijuana were seized at U.S. ports of entry, along the U.S./Mexico border, and destined for the United States. Most seizures were from non-commercial vessels. Narcotics Intelligence Estimate 1984, supra note 10, at 14.

Historical Context

From the 1930's through the mid-1970's, Mexican growers and traffickers supplied nearly all of the marijuana consumed in the United States.[176] Most shipments of the drug were smuggled into this country by car or truck; a small percentage was transported by air. The Mexican monopoly ended in 1975, when in a joint venture, U.S. and Mexican authorities increased marijuana interdiction and eradication efforts in major Mexican cultivation regions and along the U.S. borders.[177] Paraquat, a potent herbicide toxic to humans, was used widely in the eradication program, and contaminated much of the Mexican crop.[178] Despite the interdiction efforts, a portion of the tainted marijuana was successfully smuggled into the United States, and many Americans who smoked the drug subsequently suffered adverse health consequences.[179] Eradication and interdiction of the Mexican crop, compounded by the American marijuana smokers' reluctance to purchase a potentially paraquat-tainted drug, resulted in a simultaneous decrease in the availability of and the demand for Mexican marijuana. By 1979 Mexico supplied only an estimated 11 percent of the marijuana available in the United States and by 1981 that figure dropped to 4 percent.[180]

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[175] See infra at 155-159 for a discussion of corruption as an integral component of drug trafficking.

[176] Illegal Narcotics Profits, supra note 91, at 65.

[177] Senate Comm. on Governmental Affairs, Permanent Subcommittee on Investigations, Illegal Narcotics Profits (Report) 96th Cong., 1st Sess. 23.

Concurrent with the commitment of more manpower and resources to marijuana eradication and interdiction efforts in Mexico, authorities in Jamaica, which was the source of the 10 percent of the American supply not originating in Mexico, mounted a similar campaign. The Jamaican initiatives significantly reduced marijuana production and trafficking in that country, and virtually eliminated Jamaica from the American marijuana trade for a number of years.[181]

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[178] Organized Criminal Activities, South Florida and U.S. Penitentiary Atlanta, Ga.: Hearings before the Permanent Subcomm. on Investigations of the Senate Comm. on Governmental Affairs, 95th Cong. 2nd Sess. 35 (1978).

[179] J.M. Polich, P.L. Ellickson, P. Reuter, and J.P. Kahan, Strategies For Controlling Adolescent Drug Use 54 (1984).

[180] National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate 1981, at 52. The figure for 1981 Mexican imports was revised from three percent to four percent in 1983. Narcotics Intelligence Estimate 1983, supra note 16, at 9.

During the mid-1970's America's two marijuana supply sources, traffickers in Mexico and Jamaica, had only small amounts of the drug available for export. The resulting vacuum was swiftly filled by Colombian criminal groups, who for years had been involved in smuggling all manner of contraband. Through the late 1960's these groups increased cultivation of marijuana in remote regions of the Guajira Peninsula and began to develop systems to facilitate the transport of multi-ton quantities of the drug to the United States.[182] At the same time, many Colombian groups were establishing themselves as major operators in the cocaine trade: the organizational structures, trafficking routes and corrupted officials necessary for cocaine ventures often proved equally useful for marijuana trafficking.[183]

Once the Colombians established a position as marijuana traffickers, their role in the traffic expanded rapidly. By 1975 airstrips capable of handling heavy 4-engine planes with the capacity to hold one ton of marijuana were common along the Guajira Peninsula. Loading facilities for "motherships," large vessels capable of transporting tons of marijuana, dotted the coast.[184] By the early 1980's a Congressional committee estimated that between 15 and 60 thousand tons of marijuana were exported from that country to the United States each year.[185]

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[181] In 1977, Jamaican production fell to 500 metric tons. Narcotics Intelligence Estimate 1983, supra note 36, at 31.

[182] The Heroin Trail, supra note 3, at 169.

[183] See Organized Crime and Cocaine Trafficking, supra note 12, at 568.

In 1985 Colombia remains the major supplier of U.S. marijuana, but the Colombian share of the market has declined significantly since 1980.[186] This decrease is attributed to increased eradication in Colombia and to accelerated interdiction along major trafficking routes. Colombia's reduced production has been offset by increased cultivation and trafficking both in Mexico and Jamaica. Mexico, now ranked second in world marijuana production, could become the leading producer in 1986, given a Mexican bumper harvest and continuing eradication in Colombia.[187]

This short history of marijuana trafficking demonstrates that law enforcement pressure in a particular cultivation area is compensated by production and trafficking increases elsewhere.

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[184] International Narcotics Trafficking: Hearings before the Permanent Subcomm. on Investigations of the Senate Comm. on Governmental Affairs, 97th Cong., 1st Sess. 121 (1981).

[185] 1984 Annual Report, supra note 1, at 14.

[186] Colombia supplied an estimated 81 percent of the U.S. marijuana supply in 1980, 57 percent in 1982 and 1983, and 42 percent in 1984. Narcotics Intelligence Estimate 1980, supra note 120, at 54, and Narcotics Intelligence Estimate 1984, supra note 10, at, at 16-17.

[187] John Gavin, Mexico: The Drug Connection, Drug Enforcement, Summer 1985, at 8.

Trafficking organizations are positioned in all major source countries to handle increased volume when opportunities present.

Trafficking Today: Colombia

Colombia supplied 42 percent of the marijuana consumed in the United States in 1984. The major percentage of this traffic was controlled by large Colombian criminal organizations.[188]

Although the Colombian marijuana crop is cultivated in several regions of the country, the largest production occurs along the Guijara Peninsula.[189] Colombian traffickers purchase marijuana from growers, and sometimes provide protection and additional financing for cultivation. Crops are harvested twice each year, with the largest harvest occurring in the fall. The harvest pattern directly affects the level of marijuana trafficking activity between Colombia and the United States; trafficking is naturally heaviest after the fall harvest.[190]

Nearly 90 percent of the marijuana exported from Colombia is shipped to the United States by sea; almost all the remainder is transported on general aviation aircraft.[191] Both maritime and air traffic are primarily concentrated along Colombia's north coast, although some percentage of the traffic is centered along the country's Pacific coast.[192]

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[188] Narcotics Intelligence Estimate 1984, supra note 10, at 17.

[189] Information provided to President's Commission on Organized Crime by Drug Enforcement Administration.

[190] Narcotics Intelligence Estimate 1984, supra note 10, at 15.

[191] Organized Crime and Cocaine Trafficking, supra note 12, at 677.

The major portion of Colombian marijuana is shipped to the United States on large motherships.[193] These ships are typically fishing vessels or freighters and can hold tons of marijuana; a 100 foot mothership can transport 50 tons and a 400 foot mothership can ship over 100 tons of the drug.[194] These ships, generally owned or at least controlled by Colombian trafficking organizations, remain at sea or in selected Colombian ports until a shipment is prepared for export and transported to a beach site along the Colombian coast.[195] There are more than 100 such sites along the north coast from Barranquilla to Portete, all which are linked by a network of roads, trails and airstrips to the major growing areas.[196] When preparations are complete onshore, the mothership moves into a prearranged loading point typically one-half to 3 miles offshore. Small boats then ferry bales of marijuana from shore to the mothership; loading of many tons may be accomplished within an hour. Motherships are nearly always loaded at night to decrease risks of detection.[197]

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[192] _Narcotics Intelligence Estimate 1984_, _supra_ note 10, at 18.

[193] DEA defines a "mothership" as generally any sea-going "non-commercial vessel with sufficient load capacity to carry a substantial, i.e. multi-ton, quantity of marijuana.

[194] _Organized Crime and Cocaine Trafficking_, _supra_ note 12, at 677.

[195] _Id_.

[196] Information provided to President's Commission on Organized Crime by Drug Enforcement Administration.

The loaded motherships generally either sail from the Guajira coast directly to the southeastern United States or to Caribbean transshipment points, where cargo is off-loaded for future pickup.[198] Traffickers use the same maritime routes popular with cocaine traffickers; the Windward Passage between Cuba and Haiti, the Yucatan Channel between Mexico and Cuba, and the Mona Passage, bordered by the Dominican Republic and Puerto Rico, are most frequently traveled. From these routes American ports along the Gulf of Mexico and the east coast are accessible to smugglers. In addition, a small percentage of Colombian ships now sail directly to the U.S. west coast.

Those motherships that approach the U.S. coast typically hover 50-100 miles offshore in international waters. There, they are met by small ships, typically purchased or rented shrimp boats, which off-load and ferry the drug shipment to shore. While traffickers traditionally made no attempt to conceal bales of marijuana, either on motherships or on off-loading vessels, increased law enforcement surveillance has recently prompted smugglers to hide their drugs in secret compartments or in empty or false fuel tanks.[199]

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[197] Illegal Narcotics Profits, supra note 177, at 15-16.

[198] Id. Narcotics Intelligence Estimate 1984, supra note 10, at 18.

The Colombian trafficking organization normally oversees the cultivation and export of marijuana only through the off-loading procedure. Off-loading is accomplished by "service providers" who never actually own the marijuana, but who merely collect a fee for its safe transfer. Once on the U.S. shore, the drug shipment is delivered to a distributor, who in turn supplies lower level dealers. The traffic below the wholesale distributor level is vast and not well-understood.[200]

Motherships that do not travel to the United States generally transit the Bahamas and/or the Carribean. In both regions marijuana traffickers can either transfer shipments from motherships to smaller crafts, which sail to the United States, or they can unload and store shipments at island storage bases. Use of island transshipment points has increased as law enforcement efforts have intensified along the southeastern U.S.

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[199] U.S. Coast Guard Commander Kenneth W. Thompson testified before the President's Commission on Organized Crime that:

> ... increasingly, we are finding that smugglers are resorting to hidden compartments, and they are getting more sophisticated. False bulkheads, false decks, and bottoms, and fake fuel and water tanks can only be accessed from under the vessel - difficult at sea.

Organized Crime and Cocaine Trafficking, *supra* note 12, at 679.

[200] Mark Kleiman, Allocating Federal Drug Enforcement Resources: The Case of Marijuana 91-95 (Doctoral Thesis, May 1985).

coast. Rampant official corruption in a number of island nations facilitates this traffic.[201]

An estimated 3 percent of the marijuana shipped from Colombia to the United States by sea is transported on commercial vessels. Typically, marijuana is concealed in containerized cargo, but in some instances crewmen or cruiseship passengers have been directly implicated in trafficking the drug.[202] In terms of quantity, cargo shipment provides great opportunities for traffickers and presents a decreased risk of interdiction.

Air Shipment

An estimated 10 percent of the marijuana smuggled from Colombia to the United States reaches this country via general aviation aircraft or commercial air shipment.[203] Non-commercial air shipment of marijuana parallels the Colombian air trafficking patterns common in cocaine smuggling. Many of the same air routes and transshipment points are used; the same airstrips are accessible along the north coast of the country, and the same methods used to avoid law enforcement interference are applicable. Smugglers use both smaller twin engine aircraft and larger four-engine planes for marijuana transport. While air transport allows faster shipment, it limits export quantities and increases the likelihood of interdiction.

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[201] For a more complete discussion of the corruption issue, see infra at 155-159.

[202] Narcotics Intelligence Estimate 1984, supra note 10, at 18.

[203] Information provided to President's Commission on Organized Crime by Drug Enforcement Administration.

A small portion of the marijuana exported from Colombia is shipped by aircraft, then air-dropped over sea or land for pickup and further shipment to the United States. Most airdrop activity occurs in the Bahamas, but an increasing number of drops have been intercepted in the Yucatan Peninsula, Jamaica, Haiti, the Dominican Republic and Puerto Rico. Medium-size to large twin engine aircraft are typically used for air-drop operations.[204]

In addition to trafficking marijuana to the United States or transshipment points, Colombian organizations sell marijuana directly to non-Colombian traffickers, who assume responsibility for the shipment in Colombia. The buyers then traffic the drug into the United States using maritime and air shipment systems similar to the Colombian methods.[205]

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[204] While most marijuana originating in Colombia and Mexico is exported to the United States on motherships, the majority of Jamaica's marijuana crop is transported to this country on aircrafts. See Narcotics Intelligence Estimate 1984, supra note 10, at 17-19.

[205] Mexican traffickers, in particular, commonly obtain cocaine in South America, and transport it by land, sea, or air to the United States, typically via Mexico. Mexico: A Profile, supra note 60, at 17.

Mexico

Mexican marijuana production nearly doubled from 1983 to 1984, positioning Mexico as the second leading supplier of the drug to the United States.[206] An estimated 20 percent of the marijuana available for consumption in the United States originates in or transits Mexico, and that figure is expected to increase with a bumper harvest in 1985. DEA analysts predict that this increased production, with concomitant eradication and interdiction successes in Colombia, could make Mexico the top American marijuana source in 1985.[207]

Although marijuana is grown in nearly every state in Mexico, heaviest cultivation occurs in the northern and western states of Sonora, Sinaloa, Chihuahua, Oaxaca and Cuerra.[208] As in Colombia, crops are harvested twice each year, with the largest harvest in the fall. Cultivation occurs both in small open fields and in well-maintained, hundred-acre sites. Growers are typically overseen and financed by larger trafficking organizations.[209]

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[206] Net production of Mexican marijuana available for export increased from 1,300 metric tons in 1983 to between 2,500 and 3,000 metric tons in 1984. Narcotics Intelligence Estimate 1984, supra, note 10, at 18.

[207] Mexico: A Profile, supra note 60, at 8.

[208] Id.

[209] Id.

Harvested marijuana is prepared for shipment near the cultivation fields. Mexican marijuana is transported to the United States by primarily overland methods, although aircraft are also used to smuggle drugs across the border. Overland shipments are typically concealed in automobile trucks, false truck beds, camper tops and tanker trunks.[210] The larger trucks commonly haul multi-ton quantities: U.S. officials at El Paso, Texas, seized nearly 6.5 tons of marijuana from a tanker truck in February 1984, and nearly 30 tons from a cargo truck in March of that year.[211] In addition, suitcases of marijuana are often forwarded on commercial bus lines to destinations beyond border checkpoints for subsequent pick-up.[212]

Air shipments generally run between private Mexican airstrips and clandestine runways or drop spots in the southwestern United States.[213] Single engine aircraft are popular with Mexican smugglers because they can land on open fields, roadways and rough landing strips common on both sides of the border, and typically carry about 1,500 pounds of marijuana.[214] While few details are available concerning marijuana air shipment, the great assortment of airstrips on both sides of the border suggests a significant volume of air traffic. A 1977 survey, for example, detected nearly 3,000 airstrips in Mexico; one-half of them were concentrated in ten major clusters. About 600 strips lie along the United States border and are ideally positioned to serve either as launching sites for flights into the United States or as refueling stops for flights en route to this country from southern Mexico. Strips in the other clusters most likely serve as refueling and transshipment points for aircraft traveling between South America and the United States. A large number of airstrips in the southeastern United States serve as landing sites for the Mexican flights.[215]

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[210] Id.

[211] Id.

[212] Id.

[213] See Mexico: A Profile, supra note 60, at 13-14, for a discussion of Mexican airstrips.

[214] Information provided to President's Commission on Organized Crime by Drug Enforcement Administration.

Larger Mexican criminal organizations appear to control a significant portion of the marijuana traffic between Mexico and the United States. Many groups are active in both cocaine and heroin smuggling as well as marijuana trafficking. The central organizations are generally controlled by members of one extended family, but often include non-family members in lower positions. Like other trafficking groups, the Mexicans rely consistently on an essential criminal support of attorneys, bankers and other professionals, both in Mexico and in the United States.

Prominent among the larger Mexican organizations are the groups headed by Jamie Herrera Navarres, Rafael Caro Quintero,

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[215] Mexico: A Profile, supra note 60, at 13-14.

Ernesto Fonesca and Miguel Felix Gallardo.[216] These groups collaborate in smuggling ventures, much as the major Colombian cocaine trafficking organizations work in concert to maximize resources and profits. In one recent instance, for example, a consortium of traffickers led by Caro Quintero cultivated hundreds of hectares of marijuana at five separate large-scale sites throughout the state of Chihuahua. All fields were landscaped, fertilized and well-irrigated, demonstrating the Mexican traffickers' knowledge of high-tech agricultural techniques. The cultivation sites, along with eight associated processing camps, were seized by Mexican authorities in November 1984. The seizures netted 10,000 metric tons of whole marijuana, or an estimated 1,900 to 2,400 tons of net marketable marijuana. In this single operation, officials confiscated 8 times more marijuana than Mexican and American authorities at the time believed was produced annually throughout Mexico. The seizure raised serious questions both about the magnitude of drug traffic between Mexico and the United States and about continuing official corruption throughout Mexico. It seems highly unlikely that an operation the size of the Chihuahua system could develop or function without earlier detection by authorities.[217]

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[216] Information provided to President's Commission on Organized Crime by Drug Enforcement Administration.

Jamaica

Jamaica, from 1980 to 1984 this country's second leading marijuana supplier, provided 14 percent of the United States market share in 1984, trailing Colombia's 42 percent and Mexico's 20 percent contributions.[218] Jamaican traffickers, much less highly organized than their counterparts in Colombia and Mexico, supplied about 1800 metric tons of marijuana, as well as smaller amounts of sinsemilla and hashish oil to United States consumers in 1984.[219]

The greatest portion of Jamaican marijuana is transported to the United States by general aviation aircraft, although some maritime shipment also occurs.[220] Over 70 island airstrips, one-half of which are clandestine, facilitate the air traffic, which commonly includes shipment by single engine and light to heavy twin engine aircraft. Jamaican marijuana shipments are typically either flown directly to United States landing sites or are air-dropped to small pleasure craft in waters near the Bahamas.[221]

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[217] See International Narcotics Control Strategy Report 1985, supra note 6, at 7:

> While U.S. and Mexican enforcement agencies worked effectively together to detect and seize the massive marijuana cache at Chihuáhua, this large - scale marijuana production complex reinforces the point about the need for heightened vigilance and suppression of corruption.

[218] Narcotics Intelligence Estimate 1984, supra note 10, at 18.

[219] Id. Jamaica is the only significant source of hashish oil in this hemisphere.

[220] Id. at 19.

Multi-ton marijuana shipments are occasionally transported to the United States on small motherships, pleasure craft and cruise ships.[222] A small percentage of Jamaican marijuana exported to the United States is concealed in containerized cargo on commercial maritime vessels.[223]

The United States Crop

The United States is currently a significant marijuana source country: about 12 percent of the marijuana consumed in the United States in 1984 was domestically cultivated.[224] The largest crops are grown in Hawaii, California, and Oklahoma, but there is now some production in every State.[225] Growers can be landowners, but are typically squatters who operate independently or in small groups. They cultivate their crops in Federal fields, forested land, private clandestine plots or greenhouses, scattering plants next to trees or amid legitimate crops to avoid detection. Planting on Federal land offers growers the advantage of anonymity and shields them from recently enacted laws which authorize seizure of their property or other assets.[226] Many plots, including those on Federal parkland are wired with devices, such as punji sticks, fish hooks hung at eye level, and trip wires attached to guns and boulders, designed to ensure the security of the crop. Growers are often armed and violent.[227]

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[221] Department of State, Bureau of International Narcotics Matters, Narcotics Control Strategy Report 1985, at 130.

[222] Id.

[223] Information provided to President's Commission on Organized Crime by Drug Enforcement Administration.

[224] Narcotics Intelligence Estimate 1984, supra note 10, at 15.

[225] Id.

There is presently no evidence of a highly developed distribution system for the domestic marijuana crop in the United States. It appears that numerous smaller organizations traffic the drug between states and that some individual growers supply larger criminal organizations in major cities nationwide. These organizations, which include both La Cosa Nostra groups and trafficking specific groups, distribute domestic and imported marijuana to brokers, retailers, and street-level dealers. The extent of their control of the U.S. market is uncertain but estimated to be significant.[228]

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[226] During 1982 in California the U.S. Forest Service confiscated 55,000 marijuana plants, and 400 illicit operations were discovered. During 1983, the number of seizures increased to 64,000 plants at 500 sites. 1984 Annual Report, supra note 1, at 61.

[227] During 1982, authorities confiscated 500 firearms from illegal marijuana cultivators in the state of California. 77 percent of the cultivators were armed or employed the use of booby traps. Id. at 59.

The Role of the LCN

In 1967 Federal officials reported that the LCN was not significantly involved in trafficking marijuana.[229] Low profit was thought to be the primary disincentive to La Cosa Nostra involvement; in addition, the large and loosely structured market was thought to be unattractive and uncontrollable. In the late 1960's the United States marijuana supply was exported almost exclusively from Mexico.[230] Entry into the trafficking business required little capital and a simple border crossing, and thus attracted many small and independent operators. When Colombia became the major United States marijuana supplier in the early 1970's, however, the LCN was provided with a more controllable source.[231] Concurrent with this production shift, the United States demand for marijuana and the retail price level for the drug steadily escalated, prompting some LCN families to become involved in trafficking marijuana.[232] For a short period, this activity proved to be a high profit/low risk enterprise for traditional organized crime. Additionally, trafficking marijuana carried little of the social stigma associated with trafficking heroin or cocaine.

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[228] According to the Commission's Survey of Local Law Enforcement Officials, heroin trafficking accounts for 15.9 percent of all LCN activities. See Appendix B of this Report.

[229] President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Organized Crime 7 (1964).

[230] Illegal Narcotics Profits supra note 177, at 13.

[231] Blakey, supra note 160, at 372.

[232] Id.

As the following case study demonstrates, marijuana trafficking has increased the vulnerability of some organized crime families and has led to a number of significant LCN arrests.

CASE STUDY: The Cleveland Connection[233]

In the mid-1970's, Carmen Zagaria, a Cleveland drug dealer, began to buy wholesale marijuana by the pound and sell it at retail in one ounce bags. He rapidly expanded his business in the course of a few years and developed a network of suppliers, couriers and distributors. Although the business prospered generally, Zagaria lost a substantial investment in one foiled drug transaction in 1979 and borrowed money from Angelo Lonardo, the reputed underboss of the Cleveland LCN Licavoli family. In return for the loan, the Licavoli family assumed control of the Zagaria operation.

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[233] Information for this case study was compiled from: Profile of Organized Crime: Great Lakes Region: Hearings before the Permanent Subcomm. on Investigations of the Senate Comm. on Governmental Affairs, 98th Cong., 2nd Sess. 22-50 (1984).

Under Lonardo's oversight, the Zagaria enterprise expanded apidly. By 1980 the organization was buying 400-800 pounds of arijuana per week and had incorporated over 20 couriers. PCP, SD, cocaine and hashish were added to the traffic.

The methods used by Zagaria were simple. His couriers flew o the southeastern United States, usually to Florida via ommercial airline, and established contact there with a Zagaria upplier. Suppliers included both LCN affiliates and non-LCN ealers. Couriers picked up large marijuana shipments, paid for hem in cash, and drove the drugs back to Cleveland in rental ars. In Cleveland the shipments were stored in stash houses, hen distributed to a network of wholesalers and retailers. The agaria enterprise was a high-volume multimillion dollar peration; in a single 10-day period in 1980 the group brought ,000 pounds of marijuana to Cleveland from Atlanta.

In the course of his trafficking business Zagaria was involved in numerous crimes, including murder. In 1982 he was convicted of selling seven pounds of marijuana and 21 grams of cocaine and was sentenced to 10-30 years in prison. Zagaria became a Federal informant and though never a member of the Licavoli family himself, provided sufficient testimony about family activities to bring the leadership before a grand jury. In 1983 Angelo Lonardo and five other Licavoli associates were convicted and incarcerated without possibility of parole for numerous crimes, including conspiracy to distribute marijuana.

OTHER DRUGS

Millions of Americans abuse a number of licit and illicit drugs other than heroin, cocaine and marijuana; these include stimulants, synthetic narcotics, hallucinogens, and depressants. Most popular among these dangerous drugs are diazepam (Valium), methamphetamine and PCP.[234] In addition, controlled substance analogs known commonly as "designer drugs," have gained popularity with users since 1980.[235]

Dangerous drugs are available to the consumer from three major sources. Many of the drugs are approved for medical use in the United States, and reach the illicit market through a variety of diversion methods. A significant portion of the United States supply of certain drugs, notably amphetamines and diazepam, is diverted from licit channels in foreign countries and smuggled into the United States. Finally, it is estimated that all the PCP and chemical analogs, nearly all the methamphetamine and about 80 percent of the injectable amphetamine available on the illicit market in 1984 were produced in clandestine United States laboratories.[236]

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[234] In 1983, it was estimated that 6.4 million people abused the various stimulants, depressants or hallucinogenic forms of the psychotropic substances. *1984 Annual Report*, *supra* note 1, at 15.

[235] For a discussion of the "designer drug" phenomenon, see Appendix D.

[236] *Narcotics Intelligence Estimate 1984*, *supra* note 10, at 37.

Only certain areas of the traffic in dangerous drugs clearly reflect organized crime involvement. Most notably, the traffic appears to be dominated nationwide by outlaw motorcycle gangs. According to the Commission's survey of local law enforcement officials, these gangs control nearly 40 percent of the "dangerous drug" traffic in the United States.[237] While these gangs have traditionally been active in trafficking a wide variety of illicit drugs, they have developed the technology to manufacture methamphetamine and PCP, and have been a major force in the wholesale and resale distribution of these two drugs nationwide.[238]

The major outlaw motorcycle gangs traffic dangerous drugs within separate territorial boundaries: the Hell's Angels control the West Coast trade, the Outlaws dominate the Midwest and parts of the east coast, the Bandidos control the Southwest, and Eastern Seaboard States are dominated by the Pagans.[239] Officials are uncertain of the total membership of the four groups, but estimate that nearly all the U.S. traffic in PCP, and up to three-fourths of the illicit methamphetamine traffic falls under their control.[240]

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[237] President's Commission on Organized Crime, Survey of Local Law Enforcement Officials, supra note 1.

[238] Information provided to President's Commission on Organized Crime by Drug Enforcement Administration.

[239] Profile of Organized Crime: Mid-Atlantic Region: Hearings before the Permanent Subcomm. on Investigations of the Senate Comm. on Governmental Affairs, 98th Cong., 1st Sess. 12-17 (1982).

The Hell's Angels, the oldest of the four groups, first became involved in drug distribution in the late 1960's. Initially, the group trafficked marijiuana, heroin, cocaine, seconal, PCP, amphetamines and methamphetamines.[241] In the early 1970's the organization recruited a chemist to manufacture methamphetamine and to instruct other organization members in the procedure. Hell's Angels' activity shifted as their production of methamphetamine increased and within a short period of time, the organization dominated west coast methamphetamine manufacture and distribution.

In the eastern United States, the Pagan's gang leadership also recruited chemists and gained control of the methamphetamine and PCP markets from Florida to New England.[242] Pagan drug activity is centered in the Philadelphia/South New Jersey area; several Pagan-controlled processing centers and small laboratories are located in the region. It is known by law enforcement officials that Pagan gang members have frequently cooperated in joint ventures with the Philadelphia Bruno organized crime family, especialy in methamphetamine and PCP manufacture and distribution. Officials believe that the Bruno leadership regularly finances a portion of Pagan drug activities in return for a percentage of the drug profits and enforcement and protection services. In addition, it appears that the Pagans and the Bruno family have arranged to divide control of the methamphetamine and PCP markets in certain territories and that the two groups coexist and cooperate in these regions.

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[240] *Id*.

[241] *Organized Crime in America; Hearings before the Senate Comm. on the Judiciary*, 98th Cong., 1st Sess. 369 (1983).

[242] *Profile of Organized Crime: Mid-Atlantic Region*, *supra* note 239, at 97.

CASE STUDY: The Pagan/Bruno Relationship[243]

Between 1977 and 1981 both the Pagan motorcycle gang and the Bruno organized crime family were active and competitive distributors of methamphetamine throughout the mid-atlantic states. Both groups obtained P2P, an essential chemical in methamphetamine production, from Ronald Raiton, the major supplier of the chemical in the eastern United States. Raiton supplied P2P directly to Ronald Kownacki, a businessman closely aligned with the Pagan leadership, and to Ronald Martorano, a Bruno family associate. Though Kownacki and Martorano both operated in the Philadelphia area, their laboratories and clientele were distinct.

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[243] Information for this case study was compiled from the testimony of Glenn Fry recorded in Profile of Organized Crime: Mid-Atlantic Region, supra note 239, at 150-156.

Kownacki paid the Bruno family a $10,000 fee for every gallon of P2P he purchased from Raiton. He sold the methamphetamine he produced to Pagan Walter "Buckets" Jozwiak, who cut the drug and distributed it to Pagan mother club members in New Jersey, Delaware and Philadelphia. Martorano distributed his methamphetamine through Bruno family channels.

In 1980 Kownacki was assaulted and robbed by two Bruno associates, who claimed they were collecting a debt owed to the Bruno family. They stole a significant amount of gold from Kownacki, which he maintained belonged to the Pagans. In February 1981 a number of Pagans confronted members of the Bruno family and demanded that the gold be returned. The Bruno associates refused, but agreed to meet with the Pagans to negotiated possible joint ventures in trafficking methamphetamine and PCP. Finally in 1982 the Pagans and the Bruno family agreed that each group would control methamphetamine and PCP markets in separate territories and that competition between them in these areas would cease. In 1983 after the agreement, the estimated street value of the Pagan PCP and methamphetamine operations was $15.5 million.

Organized crime involvement in trafficking dangerous drugs other than methamphetamine and PCP in the United States is not well-documented. La Cosa Nostra appears to be active in trafficking methaqualone from Colombia through Florida to major ited States cities, but the scope of their interest in this rket is not known.[244] Mexican traffickers have smuggled gnificant quantities of diazepam, methaqualone and amphetamine to this country for at least ten years. A major portion of the licit methaqualone traditionally available in this country was afficked to the United States by Colombian organized crime oups; however, international controls adopted by virtually all jor producing and exporting countries have led to worldwide ortage of the drug.[245]

The DEA currently reports that organized crime is not now volved in the production or distribution of controlled bstance analogs, "designer drugs."[246] Given the enormous ofit potential of these substances, however, and the relatively mple manufacturing processes required in their production, the rmulation and distribution of controlled substance analogs uld seem to be an endeavor perfectly suited to organized crime.

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[44] There is however, a *La Cosa Nostra* dangerous drug network in uth Florida, and many of the methamphetamines and quaaludes ailable in the United States are trafficked to *La Cosa Nostra* ffiliates by members of Canadian organized crime groups.

[45] *Narcotics Intelligence Estimates 1984*, *supra* note 10, at 40.

[46] See Monastero, *Recommendations for the Regulation of Selected recursor Chemicals and Controlled Substance Analogs* (in Appendix to this Report) for a discussion of controlled substance nalogs.

DRUG TRAFFICKING, TERRORISM, AND INSURGENCY

Drug trafficking organizations in many areas of the world coexist and cooperate with political insurgent groups and terrorists.[247] Their typical relationship is mutually beneficial: traffickers supply terrorists with American currency and weapons in return for protection and assistance in smuggling activities. While terrorists and insurgents do not currently control significant portions of the drug trade, the profit potentially realized from even isolated drug transactions could provide sizable revenues for a militant cause. Terrorists and insurgents funded through drug trafficking could very conceivably

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[247] As defined by Mark. S. Steinitz, who from 1979 to 1983 Served in the Office of Intelligence of the Drug Enforcement Agency:

> The terms terrorism and insurgency are used to describe two forms of systematic, low-level political violence conducted by militant subnational groups. The difference between the two is difficult to define precisely. The terrorist, however, has little hope of inflicting a significant military defeat on an opponent regime and relies almost exclusively on the psychological impact of violence. His targets are chosen for their symbolic value and are often civilians. The terrorist avoids set battles with security forces, has no standing force in the field, rarely wears distinguishing insignia during operations, and shows little interest or ability in occupying a significant portion of territory. Although relying at times on the psychological impact of violence, the insurgent seeks primarily to affect political behavior through the material impact of violence and selects target for the instrumental value. The insurgent is willing to engage security forces at least on the small unit level, wears some type of uniform, has a permanent force in the field and generally controls territory, at least in the latter stages of struggle.

Mark Steinitz, Insurgents, Terrorists and the Drug Trade, The Washington Quarterly, Fall 1985, at 141-153.

come powerful enough to disrupt governments in a number of
untries presently allied with the United States, and thus pose
serious threat to this country's national security.[248]

The role of terrorists and insurgents in drug trafficking
as expanded greatly since the early 1970's as drug trafficking
as spread across the world. At that time, heroin traffic was
ontrolled by North American organized crime groups working with
icilian suppliers in the French Connection, marijuana was
upplied to the United States almost exclusively by Mexican
rafficking organizations, and cocaine traffic in this country
as insignificant. Heroin now reaches North America from Europe,
he Middle East, Mexico and Southeast Asia. Marijuana is
rafficked to the United States by Colombian and Caribbean based
roups as well as by Mexicans, and cocaine from nearly every
ountry in South America satisfies a still-increasing demand for
he drug throughout this country.

At the same time, the expanded United States market for
llicit drugs has swelled the profit from trafficking to enormous
roportions, and attracted terrorist and insurgent groups to this
ctivity. In addition, this source of funding serves the
deological purposes of many groups. As explained by terrorism
expert Michael Ledeen:

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[248] Id.

> Running drugs is one sure way to make big money in a hurry. Moreover, the directions of the flow are ideologically attractive. Drugs go to the bourgeois countries, where they corrupt and where they kill, while the arms go to pro-Communist terrorist groups in the Third World.[249]

The links between terrorist and insurgent groups and traffickers are most substantial in drug source countries, including Colombia, Peru, Burma and Thailand.[250] In Colombia, four major insurgent organizations work in collaboration with cocaine traffickers. The oldest, largest, and best-equipped of these groups is the Revolutionary Armed Force of Colombia (FARC), which is the armed wing of the Colombian Communist Party (PCC) and claims over 5,000 active members and supporters.[251] The FARC forces consist of between 23 and 28 "fronts," essentially independent company-level forces, nearly all of which are located in Colombia's rural areas. Over one-half of the fronts operate in coca and marijuana growing regions.[252] FARC forces cultivate some coca, but derive more profit by collecting protection payments from coca growers in their operating territory, often demanding a 10 percent share of the drug profits. One FARC front reportedly obtained over $3.8 million per month by assessing this protection tax.[253] Collected monies are used to buy weapons and supplies which are often shipped into Colombia on return drug flights. Two FARC fronts have had documented direct dealings with cocaine traffickers to obtain arms and ammunition.[254]

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[249] Drugs and Terrorism 1984, supra note 106, at 2.

[250] Id. at 27.

[251] Steinitz, supra note 247, at 142.

[252] Id.

[253] Drugs and Terrorism 1984, supra note 106, at 2.

In exchange for the levied fee, the FARC forces protect growing and trafficking areas, including air fields, and warn traffickers of nearby anti-narcotics police or military patrols. In certain areas of Colombia FARC fronts control enough strategic points to make police travel difficult or impossible.[255]

FARC encampments have recently been discovered in close proximity to several major cocaine processing centers. For example, on April 6, 1984, during a raid of a fully operational processing center in Southeast Colombia known as "La Loma," officials discovered and subsequently destroyed a FARC guerrila base camp. The FARC camp, complete with airstrips and large stockpiles of food and medical supplies, that group's direct involvement in providing protection for the cocaine traffickers. A month prior to the La Loma raid, when authorities raided another processing center nearby known as Tranquilandia, they were met by approximately 30 armed resistors in fatigue uniforms believed to be FARC members.[256]

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[254] The 13th Front, located in the southern part of Huila Department, and 4th Front, located in the Putumayo Department, have been dealing with coca traffickers to obtain arms and ammunition. Steinitz, supra, note 247, at 142.

[255] Drugs and Terrorism 1984, supra note 106, at 39.

[256] For details of the La Loma raid, see Organized Crime and Cocaine Trafficking, supra note 12, at 619-622.

A number of other militant organizations in Colombia have also been associated with the drug trade. The leftist 19th of April movement (M-19) has been most notable for its October 1985 takeover of the Colombian Palace of Justice in which 11 of that country's Supreme Court Justices were murdered.[257] Although M-19 was once hostile to traffickers, and on several occasions kidnapped relatives of prominent drug smugglers, some officials maintain that the the October incident was related to drug trafficking. It is alleged that the attack was motivated by the M-19's desire to destroy records that might lead to the extradition a number of major Colombian cocaine traffickers, and to intimidate authorities in Colombia to force them to rescind the extradition treaty in effect between that country and the United States.[258] M-19 also at least once traded drugs for arms from Cuba through Colombian trafficker Jaime Guillot-Lara.[259] In the early 1970's to 1982 Guillot supplied M-19 with weapons in return for their assistance in his drug smuggling activities through high-ranking Cuban officials. The Cubans provided a safe haven for Guillot's drug smuggling vessels en route to the United States from Colombia in return for payments. M-19 received iodic weapons shipments for facilitating the arrangement on llot Lara's return trips to Colombia from the United States.

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[257] *Colombian Guerrilla's Drug Connections Crystallize in Shoot Out*, Wall Street Journal, Nov. 15, 1985, at 31.

[258] *Id*.

[259] For details of the Guillot-Lara Case, *see Drugs and Terrorism 1984*, *supra* note 106, at 17.

In Peru, where an estimated 40 percent of the world coca p is grown, insurgents and traffickers share much the same ationship evidenced by the Colombians.[260] Insurgents and owers work in the same remote areas, primarily in the upper allaga Valley, but operate separately. Smugglers supply arms d money are supplied in return for militant protection. The o groups do not maintain a structured relationship or pursue mmon goals; their collaboration is one of convenience.[261]

The most prominent insurgent group currently operating in ru is the Maoist Shining Path (*Sendero Luminoso*), which seeks a ral-based revolution to rid the predominantly peasant pulation of the "imperialistic" influences of the United States d other foreign governments.[262] While existing evidence is sufficient to link the Shining Path to the drug trade, the roup has incited peasants, many of whom make their living from oca cultivation, to rebel against anti-coca projects in major rowing areas. During 1984 several anti-coca projects, including United States-supported crop substitution program, were

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[60] Steinitz, *supra* note 247, at 143.

[61] *Drugs and Terrorism 1984*, *supra* note 106, at 46-47.

[62] *The Relationship of Drug Trafficking and Terrorism: Hearings efore the Senate Comm. on Foreign Relations and the Senate Comm. n the Judiciary* 6 (1985) (Testimony of David L. Westrate).

attacked by armed mobs, resulting in many injuries and deaths.[263]

In Southeast Asia a number of political insurgent groups rely principally on heroin smuggling to finance their activities. They control or influence the main areas of opium production in northeastern Burma, where the Burmese government does not exert authority. The insurgents range from ideological revolutionaries like the Burmese Communist Party (BCP), to ethnic separatists, such as the Kachin Independence Organization (KIO), and opium warlords, like the Shan United Army (SUA). All of these groups, whatever their professed objectives, are heavily involved in the production, transport or sale of heroin.[264]

In Burma, where 90 percent of the southeast Asian opium crop is grown, the BCP controls an estimated two-thirds of the major opium production areas and levies a protection tax on cultivators.[265] While the BCP has traditionally controlled opium cultivation and the SUA has exclusively dominated associated refining and trafficking activities, the BCP has recently begun to engage in processing and sales, and the groups have come into conflict.[266] The BCP remains an active political nsurgency while the SUA now concentrates its resources almost ntirely on the drug trade.[267]

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[263] Drugs and Terrorism 1984, supra note 106, at 48-49.

[264] Relationship of Drug Trafficking and Terrorism, supra note 262, at 19-20 (Statement of Clyde D. Taylor).

[265] Id. at 20.

[266] Steinitz, supra note 247, at 144.

In Thailand the link between insurgency and drug trafficking s much weaker.[268] Although Burmese groups operated with elative impunity on both sides of the Burma/Thailand border in ne early 1980's, government initiatives in Thailand have everely disrupted their activities. The only indigenous Thai nsurgent group of any consequence, the Communist Party of hailand (CPT), is reportedly ready to engage in drug rafficking, but has been kept under control by Thai security orces.[269]

In the Middle East, nearly all the militant groups engage in truggle in Lebanon--Palestinians, Phalangists, Druze and hiites--reportedly are financed in some part by the drug trade. ebanon's Bekaa Valley is the site of significant hashish roduction; heroin laboratories are also believed to exist in the rea. Terrorists throughout that area can and do enter the drug rade, either directly or by protecting drugs transshipped hrough regions they control.[270]

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[267] Id.

[268] Relationship of Drug Trafficking and Terrorism, supra note 262, t 20 (Statement of Clyde D. Taylor).

[269] Id.

[270] Steinitz, supra note 247, at 144-145.

Armenian terrorists are also active in Lebanon, especially in Beirut, where Armenian nationals are heavily involved in drug trafficking. In 1980 Noubar Sofoyan, an Armenian heroin and hashish trafficker connected with the right-wing Justice Commandos of the Armenian Genocide, was indicted in the U.S. for heroin smuggling. Sofoyan allegedly helped fund the 1976 bombing of a Turkish installation in Zurich. He was arrested in Greece on drug charges in 1981 and was subsequently extradited to Lebanon and released; he remains a fugitive today.[271]

Traffickers as Terrorists

While drug traffickers are not by definition terrorists or insurgents, they rely heavily on terrorist tactics to obtain limited political objectives. The use of threats, violence, assassination and kidnapping by trafficking organizations to prevent vigorous enforcement of drug laws can only be categorized as terroristic in nature.

The use of terrorist tactics is most evident among traffickers in Colombia, Peru and Mexico. In Colombia much of the violence centers on the issue of the extradition of reputed Colombian drug traffickers to the United States for trial. The extradition issue has become prominent in the past two years under Colombian President Belisario Betancur, and has prompted unprecedented levels of terrorism by traffickers. Two key members of the Colombian government, Minister of Justice Rodrigo Lara-Bonilla and Justice Ministry Assistant Eduardo Gonzalez, both outspoken supporters of the implementation of the United States/Colombia extradition treaty, were murdered reportedly by traffickers in 1984.[272] The Colombian judiciary, the body responsible both for the investigation of drug cases and the disposition of extradition requests, has been targeted by traffickers. Twenty-four judges, among them the judge investigating the Lara assassination, have been murdered in the past two years.[273] Americans have also been singled out: Colombian traffickers have reportedly offered a $350,000 bounty for the murder of any top DEA official in the United States or in Colombia, and have threatened to kill five Americans for every reputed Colombian drug trafficker extradited to the United States.[274]

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[271] Relationship of Drug Trafficking and Terrorism, supra note 262, at 7 (Statement of David L. Westrate).

In Peru drug-related violence has been increasing since 1983, and has specifically targeted anti-drug efforts in the Upper Huallaga Valley.[275] A series of violent attacks by traffickers on police units and eradication workers in that area led to the November 1984 torture and murder of 19 members of a United States-financed coca-eradication team, and subsequently to the brutal murder of 17 United States financed eradicators by about 50 traffickers armed with submachine guns less than one year later.[276] Dozens of people in Peru, including policemen, mayors and farmers have been reported killed in the past year in attacks attributed to cocaine traffickers.[277]

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[272] Id. at 8-9.

[273] Id. at 10.

[274] Id. at 9.

[275] Drugs and Terrorism 1984, supra note 106, at 48-49.

In Mexico trafficking violence culminated in the February kidnapping, torture and murder of DEA Agent Enrique Camerena and a Mexican pilot.[278] Camerena's abduction occurred shortly after Mexican police, alerted by DEA, raided the largest marijuana plantation ever discovered in that country and seized an estimated 8,500 tons of marijuana.[279] In the course of the search for Camerena, five persons, including a police officer, were killed.[280] Mexican trafficker Rafael Caro Quintero is being held by Mexican authorities in connection with the Camerena murder. The trafficking-related violence in Mexico escalated further in November 1985, when 17 police officers and other members of an anti-drug team working in southern Mexico were lured into an ambush, tortured, and killed by a large group of drug traffickers armed with automatic weapons.[281]

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[276] The Relationship of Drug Trafficking and Terrorism, supra note 262, at 7 (Statement of Clyde D. Taylor).

[277] Id.

[278] Mexico: The Drug Connection, supra note 187, at 7.

[279] Id.

[280] Drug Dealers Attack Police in Mexico, Wash. Post, Nov. 3, 1985, at A23.

GOVERNMENT COMPLICITY

A number of hostile foreign governments, motivated either by a need for hard American currency, or by a more ideological desire to undermine governments in Europe and the United States, actively facilitate drug trafficking activities. Cuban and Nicaragua blatantly aid traffickers smuggling drugs from Colombia to the United States; the Bulgarian government assists traffickers transporting drug shipments from Southwest Asia to Western Europe.[282] All three countries are geographically well-positioned to serve as transshipment points for drugs en route to Europe or the United States, and all allow trafficking routes to cross through their sovereign territory, thus providing a way for traffickers to circumvent drug-interdiction authorities.

Cuba

Reports of Cuban government involvement in drug trafficking first surfaced in the early 1960's, but were in large measure unsubstantiated. A series of reports in the 1970's subsequently suggested Cuban Government involvement, but did not provide solid evidence of such activity.[283] In the early 1980's, however, the link between the Cuban government and Colombian drug traffickers was documented. In November 1982, the United States District Court indicted four major Cuban officials on charges of conspiracy to smuggle drugs; those indicted included the former Cuban Ambassador to Colombia, two officials of the Cuban Communist Party, and the Vice Admiral of the Cuban Navy. All four officials were involved in facilitating the trafficking activities of Colombian Jaime Guillot-Lara, reputedly a major marijuana, cocaine and methaqualone trafficker. The Cuban officials, according to the indictment, agreed to allow Cuba to be used as a supply and loading center for Lara's ships transporting drugs to the United States, and permitted him to navigate drug vessels through Cuban waters to evade United States interdiction authorities. The Cuban Government reportedly expected large payments for their role in this traffic; on one occasion, the government was to receive approximately $800,000 from the sale of 10 million methaqualone pills and approximately 23,000 pounds of marijuana.[284]

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[281] *Id*.

[282] *See*, *Drugs and Terrorism 1984*, *supra* note 106, at 31-35 (Bulgaria); 41-44 (Cuba); 44-45 (Nicaragua).

In addition to facilitating maritime trafficking, recent reports indicate that drug traffickers regularly fly through otherwise tightly controlled Cuban airspace. Traffickers apparently have an assigned corridor which they can transit without challenge from Cuban air defenders.[285] Cuba also reportedly allows Colombian traffickers to offload drugs to other carriers for the final journey to the United States.[286]

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[283] The Relationship Between Drug Trafficking and Terrorism, supra note 262, at 13 (Statement of Clyde D. Taylor).

[284] See generally the Cuban American National Foundation, Castro and the Narcotics Connection 9-17 (1983).

It is often difficult in drug trafficking cases to make a distinction between corrupt high-ranking government officials and government-sanctioned involvement in the drug trade. Given, however, the tight controls exerted by the Castro government's security apparatus over foreign travel and communications, the drug-related activities which have occurred in Cuba in recent years almost certainly were known and approved by that country's highest ranking officials. According to the Department of State:

> . . . the evidence clearly indicates more than a case of corruption by local or mid-level security officials in Cuba . . . Narcotics trafficking has apparently been sanctioned by Cuba as a means to finance subversion in Latin America.[287]

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[285] General Paul Gorman, Illegal Drugs and U.S. Security 21, (paper prepared for the President's Commission on Organized Crime, Appendix G to this Report, Sept. 1985).

[286] *Id.* at 22.

[287] Relationship Between Drug Trafficking and Terrorism, *supra* note 262, at 4 (Statement of James H. Michel). In addition, in 1983 Mario Estevez Gonzalez, a former drug dealer, testified in U.S. District Court in Miami that Cuban Vice Admiral Aldo Santamaria Cuadrando said to the crew of a drug smuggling ship:

> We are going to fill Miami completely with drugs. . . so that more young Americans will die.

Nicaragua

Since 1981, the United States has received a steady stream of intelligence indicating that Nicaragua is used by drug traffickers as a transshipment point between Colombia and the United States, and that officials of the revolutionary government there, the Sandinista Directorate, are involved in the drug trade.[288] Evidence further suggests that enforcement measures implemented by Colombian President Betancur have prompted Colombian traffickers, notably Jorge Ochoa and Pablo Escobar, to relocate their cocaine processing facilities to Nicaragua.[289]

The best evidence to date of the link between the Nicaraguan government and Colombian drug traffickers came to light in 1984.[290] In that year, pilot Adler Barriman Seal, a former Ochoa cocaine trafficking pilot working then with the DEA in an undercover capacity, reported that Escobar and Ochoa had agreed in April 1984 to use Nicaragua as a cocaine smuggling base. At Ochoa's request, Seal flew 750 kilos of cocaine in June, 1984 from Colombia to an airfield just northwest of Managua. The airfield was used generally as a joint facility by the Nicaraguan

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United States v. Jaime Guillot-Lara (82-643-CR-JE, S.D. Fla.)

[288] General Gorman, supra note 285, at 19.

[289] Id. at 20.

[290] For details of this operation, see Drug Interdiction Symposium, supra note 17, at 48-54.

armed forces and the Ministry of the Interior. Seal's aircraft was damaged in the landing, and according to Seal, Frederico Vaughn, a personal assistant to Interior Minister Thomas Borge, arranged for him to return to the United States in another plane. Later that June, Seal returned to the airfield in a C-123 aircraft, equipped with a hidden camera, to retrieve the drugs. Both Vaughn and Escobar, escorted by Nicaraguans in uniform and recorded on videotape, personally helped Seal load the cocaine into the aircraft. Vaughn was paid $1.5 million for providing the Colombian traffickers "secure facilities."

In July 1984, Seal made another trip to Nicaragua from the United States to bring supplies for a new cocaine processing complex under construction there. In a subsequent taped conversation with Seal, Frederico Vaughn stated that the processing center was ready for use.

Eleven persons, including Vaughn, were indicted by a Federal grand jury on charges stemming from this trafficking arrangement. All remain at large. It is highly unlikely that these trafficking activities occurred without the knowledge and consent of the Sandinista government.

Bulgaria

Since the late 1970s, reports that many drug dealers, especially Turkish nationals, operate out of semi-permanent bases in Bulgaria have been in circulation. The allegations against Bulgaria include charges that the Bulgarians, primarily through an official government trading firm, Kintex, officially sanction the sale of illicit drugs to Western Europe and use the proceeds from those sales to finance illegal arms transactions and to bankroll terrorist groups. There are consistent reports that top-ranking members of the Bulgarian Security Service or ex-Bulgarian ministers comprise the directorate of Kintex.[291]

Certain smugglers are reportedly permitted to conduct activities within Bulgaria. In effect, Bulgarian officials, though Kintex, assign representatives to establish fee arrangements with smugglers for bartered contraband. Smugglers trafficking through Bulgaria are primarily Turkish nationals of Kurdish background, but include Syrian, Jordanian, Lebanese and European nationals.[292]

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[291] Drug and Terrorism, supra note 106, at 31-34.

[292] Id. at 34.

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[291] Drug and Terrorism, supra note 106, at 31-34.

[292] Id. at 34.

CORRUPTION

The Role of the Corrupt Official

The corrupt official is the sine qua non of drug trafficking. By the corruption of his office, he protects the interest of traffickers in all phases of growing, processing and smuggling illicit drugs. Officials "from the lowly constable on up" are bribed and subverted by traffickers.[293]

Mexico

While United States officials and investigators commonly acknowledge that corruption among the ranks of both the Mexican Federal Judicial Police and the Directorate of Security facilitates drug trafficking in and through that country, they are hesitant to make open accusations concerning the relationship between corrupt officials and traffickers. Their reasoning is persuasive: Mexico is a neighbor and an ally, a politically and economically unstable one at that. The government of President Miguel de la Madrid appears sincere in its efforts to improve the quality of drug law enforcement throughout the country. Nonetheless, mounting evidence prompted the Department of State to assert in its 1985 mid-year report to Congress that:

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[293] Organized Crime and Cocaine Trafficking, supra note 12, at 241-274. Drug-related corruption of a large scale or systemic nature has not been documented in the United States to date. Smuggle Adler B. Seal was:

> ... never involved with any [American] law enforcement official who was bribed or corrupt ... nor do I know of any instances firsthand of any [American] law enforcement official who has taken bribes.

Drug Interdiction Symposium, supra note 17, at 58.

> There are strong indications that the Mexican [drug] program has been less effective over the past two years, and that corruption is playing a major role in this decline.[294]

Drug-related corruption among members of Mexico's Federal police force, which was widespread and well-publicized in the 1970's, continues to undermine anti-drug efforts in that country.[295] Allegations of corruption surfaced in March 1985, after DEA agent Enrique Camarena Salazar and his pilot, Alfredo Zavala Avelar were kidnapped and murdered in Guadalajara. Six Mexican police officers were indicted on charges related to the Camarena murder; they were charged with assisting drug traffickers through "protection of personnel and goods, custody of drugs in transit, as well as continuing services of information." The arrested officers have reportedly confessed that drug traffickers offered them between $200 to $6,250 a month for official protection.[296]

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[294] Internationally Narcotics Control Strategy Report, Mid-Year Update, supra note 6.

[295] See Corruption, Mexican Style, N.Y. Time Magazine, Dec. 16, 1984, at 66-80.

[296] Mexico Busts Its Top Cops, Newsweek, April 22, 1985, at 34.

In connection with the Camarena case, DEA officials maintain that Jorge Armando Pavon Reyes, the First Commandante of the Mexican Federal Judicial Police, who directed the investigation into the Camarena murder, accepted a bribe from the trafficker suspect in the killing, Rafael Caro Quintero, and in return allowed Caro to leave Guadalajara. Later apprehended in Costa Rica, Caro claimed in a confession that he paid Pavon Reyes $265,000 to avoid arrest at the Guadalajara airport. Despite his denials of the charges, Pavon Reyes was indicted for the crime in Mexico in April 1985.[297]

United States pressure after the Camerena murder and subsequent revelations of corruption prompted a number of quick responses from the Mexican Government. President de la Madrid announced a major reorganization and consolidation of the police forces under stronger Federal control;[298] the governor of one Mexican state dismissed that state's entire judicial system, including the state attorney general, police and administrative personnel;[299] and a reported 100 agents of the Federal Security Directorate, a political police force and counterintelligence unit run by the Interior Ministry, resigned in the face of corruption allegations.[300] Corruption in at least some Mexican institutions, however, appears to be deeply embedded and not likely to be eliminated quickly or easily. At the end of September, 1985, six months after the Camerena murder, evidence of Mexican corruption continued to surface as the members of the United States Fraternal Order of Border Patrol Agents charged that:

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[297] Id. More than one year after Camarena's murder, the U.S. Ambassador to Mexico, John Gavin, charged that at least 50 people involved in Camarena's murder are still at large. Orme, U.S. Accuses Mexico of Lagging in Case of DEA Agent's Death, Wash. Post, Feb. 7, 1986, at A25, col. 1.

[298] Mexico Drug Arrests: Tip of Iceberg, N.Y. Times, April 30, 1985, at A3.

[299] Id.

> Mexican federal agents, using the latest in radio and scanner-equipped cars and armed with automatic weapons, have been providing transit security for huge loads of domestically produced marijuana and heroin and in-transit cocaine.[301]

Bahamas and Caribbean

The Bahamas and a number of Caribbean countries serve as a major refueling transshipment points for traffickers transporting illicit drugs from Mexico and South America to the United States. Corruption among officials at all levels throughout these countries appears to be widespread.

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[300] Id.

[301] Border Agents Charge Mexican Police Escort Drug Traffickers to U.S., Wash. Times, Sept. 26, 1985, at 4A. Corrupt U.S. officials at the border can severely hamper drug investigations. Currently there is no central repository for allegations of corruption of U.S. border personnel. Such a central repository should be considered and could be placed within the Department of Justice.

Drug-related corruption has reached the highest offices of government in the British-held Turks and Caicos Islands, where in March 1985, that country's Chief Minister, Norman Saunders, was convicted of conspiracy to travel in furtherance of a drug plot and on five counts of traveling in furtherance of in illicit drug transaction.[302] Saunders, the first foreign head of state to be convicted on drug charges, was found not guilty of more serious charges of conspiracy to smuggle marijuana and cocaine. Trial witnesses testified that Saunders accepted a total of $50,000 to allow drugs to move freely through his island chain. He planned to use the islands as a "safe-haven" for traffickers smuggling illicit drugs from Colombia to the United States. Stafford Missick, Minister of Commerce and Development in the Saunders government, was convicted of conspiracy to import concaine and marijuana in the case; a third indicted Turks and Caicos official, Aulden Smith, has not yet been tried.

In the Bahamas, a 1984 Commission of Inquiry investigating drug trafficking through the Islands reported that Bahamian officials "from policemen to cabinet minister" allowed the Islands to be used as a transshipment point for illicit drugs in return for sizeable bribes.[303] A majority of the three-man Commission concluded that no credible evidence directly tied

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[302] *See* *2 Guilty in Islands Drug Plot*, N.Y. Times, July 21, 1985, a A42; *Saunders, minister found guilty on narcotics deal*, Wash. Times, July 22, 1985, at 4A.

[303] *See* *Commission of Inquiry, Report to the Governor-General*, 1984 *Probe Finds Corruption in Bahamas*, Wash. Post, Dec. 18, 1984.

Bahamian Prime Minister Lynden Pindling to the drug-related corruption, but noted that Pindling's bank accounts reflected deposits of $3.5 million in excess of his salary between 1977 and 1983.

The Commission of Inquiry noted that a number of the Family Island Commissioners, the representatives of the central government on nearly all the Bahamian Islands:

> claimed they either had no direct knowledge of drug trafficking or had never received any complaints regarding such activity ...We find that to be quite remarkable and we do not believe that they were being candid with us ...they could not help but know what was going on in relation to drug trafficking. We have concluded that there must have been a degree of acquiescence on their part...[304]

The Commission report also charged that Colombian cocaine trafficker Carlos Enrique Lehder Rivas operated an extensive cocaine enterprise in the Bahamian Island of Norman's Cay from 1978 until 1982, and the Lehder paid "substantial bribes" to various ranks of policemen and customs officials to facilitate his illicit drug activities.[305]

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[304] Report to the Governor General, supra note 303, at 175-176.

[305] Id. at 67. "There is not doubt that the Lehder organization conducted a large-scale smuggling operation through Norman's Cay from at least early 1979 to September 1982. It is clear that the police and senior government officials were aware of the illegal activities but their response was inadequate."

Former trafficker Luis Carcia, who transshipped marijuana and cocaine through the Bahamas on a regular basis in the late 1970's and early 1980's testified before the President's Commission on Organized Crime that he had:

> . . . never seen corruption such as there is in the Bahamas. The policemen used to plead with me to use airstrips in their territory so they could received the pay-off . . . sometimes off-duty police unloaded the stuff from the plane and into the boats for me . . . we always operated out of the Bahamas because of the total corruption there.[306]

South America

Official corruption has seriously hindered anti-drug efforts throughout South America, especially in Bolivia and Peru. Throughout Bolivia during the 1980's regime of General Garcia Meza, corruption among high-level officials charged with drug enforcement was so rampant that "the government itself became an international drug trafficker."[307] Despite the subsequent efforts the current Bolivian government to more effectively enforce drug control laws, corruption at all levels of the Bolivian government remains a major problem. In 1983, for example, Bolivian authorities arrested two suspected traffickers with a small amount of cocaine and confiscated a 14,000 acre ranch and two airplanes belonging to them. Two weeks later, the men were transferred to the authority a local prosecutor who subsequently released them and returned their possessions. According the reports, at least $250,000 in bribes were paid to Bolivian police and government officials for the release of the two traffickers.[308]

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[306] Organized Crime and Cocaine Trafficking, *supra* note 12, at 652.

[307] General Gorman, *supra* note 285, at 14.

In August 1985, officials in Peru began a drug corruption investigation that country's entire Interior Ministry after authorities discovered direct telephone lines linking reputed cocaine trafficker Reynaldo Rodriguez Lopes to officials at the Mexican Consulate in Peru. Officials also found a government car belonging to a top aid of former Interior Minister and Prime Minister Luis Percovich parked in front of Lopes' home.[309]

These are a few among many example. Corruption linked to drug trafficking is a widespread phenomenon among political and military leaders, police and other authorities in virtually every country touched by the drug trade. The easily available and enormous amounts of money generated through drug transaction present a temptation too great for many in positions of authority to resist.

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[308] U.S. Drug Crackdown Stalls in Bolivia, N.Y. Times, Aug. 23, 1984, at A1.

[309] Id.

CHAPTER IV: FEDERAL DRUG STRATEGY: ORIGINS, EVOLUTION, AND CURRENT STATUS

INTRODUCTION

The Federal response to the national problems of drug abuse and drug trafficking over the years has been both dynamic and characterized by frustration. Drug use and its concomitant organized crime effects continue to challenge the Nation to develop a more effective and sophisticated response. Typically, a particular Federal enforcement reaction to drug abuse and drug trafficking has prompted drug traffickers and drug abusers to take defensive actions, which in turn have required new or different governmental responses. This reactive process has been particularly characteristic of the Federal effort over the last two decades.[1]

The history of Federal drug policy that follows demonstrates that approaches to reduce supply have been the preferred and dominant Federal response over the last 75 years. It is only relatively recently that the nature of the drug supply-demand dynamic has become widely understood, leading to an increased appreciation for and emphasis on programs to reduce demand, and that there is still no consensus on what the role of the Federal

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[1] In late 1979, The Comptroller General reported to Congress that "[s]ince 1968, the Federal Government has frequently reviewed and adjusted its strategy -- both domestic and international." Comptroller General, Report to The Congress: Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes 1 (GGG-80-4) (Oct. 25, 1979) (hereinafter cited as Comptroller General's 1979 Report.)

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government in the national campaign against drug trafficking and drug abuse should be.

THE EARLY YEARS

Although use of drugs has been viewed by many Americans as a medical problem or a personal moral shortcoming throughout this country's history, laws regulating or proscribing such use are of relatively recent vintage.[2] The first significant piece of prohibitory legislation relating to drugs in the United States was an ordinance enacted in 1875 by the city of San Francisco prohibiting the operation of opium dens, commercial establishments in which the smoking of opium occurred.[3] One western state after another followed San Francisco's lead and enacted legislation prohibiting opium smoking.[4] Within eight years of the passage of the San Francisco ordinance, Congress raised the tariff on smoking opium, which was a relatively mild form of opium, from $6 to $10 a pound; the tariff on opium had first been imposed in 1842.[5] In 1887, apparently in response to obligations imposed upon the United States by a Chinese-American commercial treaty negotiated in 1880, Congress prohibited the importation of smoking opium by Chinese subjects.[6] Despite these first legislative efforts, the incidence of drug use and addiction increased, as did societal concern and illegal drug smuggling.[7]

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[2] J. Kaplan, The Hardest Drug: Heroin and Public Policy 59-60 (1983); 1983 Annual Report of the Organized Crime Drug Enforcement Task Force Program 4-5 (March 1984) (hereinafter cited as 1983 OCDE Report).

[3] Kaplan, *supra* note 2, at 61. Kaplan charges that this legislation was, at least in part, a manifestation of xenophobia directed against Chinese immigrants, who had originally been brought to this country in the 1860s to build the Western railroads. *Id.*

[4] *Id.* at 61.

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[5] C. Terry and M. Pellens, The Opium Problem 745-747 (1928). The tariff act of October 1, 1890, increased the rate on smoking opium to $12.00 per pound. Id. The high rates on such opium had several consequences, not all of them desirable: The amount of smoking opium legally imported, as well as the resulting Federal revenues therefrom, declined; smuggling of such opium by "systematic organizations on the Pacific Coast" increased substantially; and smoking opium was manufactured from legally imported crude or medicinal opium. Id.

The smoking opium tariff rates were raised to these high levels even though the Collectors of Customs had concluded that the drug "could not bear a higher rate of taxation than $6 a pound." Id. Because of the adverse consequences flowing from the high tariff duty, the rate on smoking opium was reduced to $6 a pound by the Dingley Act of July 24, 1897.

[6] Kaplan, supra note 2, at 61. The 1880 Treaty and subsequent legislation did not put an end to the smoking of opium in the United States because, although Chinese subjects were prohibited from importing opium into the United States, American citizens were not similarly disqualified. Indeed, American citizens continued to import smoking opium, and they distributed it to Chinese subjects who in turn sold it to those, both Chinese subjects and American citizens, who had become addicted. Terry and Pellens, supra note 5, at 745.

The American-Chinese Commercial Treaty of 1880 is just one example of action taken by the United States regarding opium trafficking beyond its own borders before 1909. Similar actions were reflected in bilateral agreements with Siam, Japan, and China. Id. at 630-631.

Although estimates concerning the number of drug addicts during the 50 years prior to the passage of drug legislation in 1914 are inherently suspect,[8] the available information suggests that drug abuse during that period was a "major medico-social problem."[9] In fact, by 1909, the United States was confronted with a significant and growing drug problem. The increased opiate use and addiction in the United States subsequent to the Civil War has been attributed to several factors, including the indiscriminate use of morphine to treat battlefield casualties during the Civil War.[10] The increase in morphine addiction was such that the phrase "army disease" was used to describe the drug use among ex-soldiers.[11] The widespread administration of morphine by hypodermic syringe also contributed to the increase in opiate abuse.[12] Other circumstances, which exacerbated the situation during the period of 1865-1914, included the spread of opium smoking from Chinese immigrants to American citizens,[13] the use of opium and its derivatives by the American patent medicine industry,[14] and the marketing of heroin beginning in 1898 as a safe, powerful, and non-addictive substitute for the opium derivatives morphine and codeine.[15]

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[7] That concern was in no way abated by the results of the passage of the Food and Drug Act in 1906, which required the disclosure of contents on the labels of patent medicines. Although this disclosure law had the beneficial effect of substantially decreasing the use of proprietary or patent medicines containing opiates, other forms of opium use continued at alarming rates. Terry and Pellens, supra note 5, at 748.

[8] Although recognizing that the accuracy of an 1877 survey, which estimated that there were 117,000 addicts out of a total United States population of 46 million, was uncertain, a Congressional subcommittee nevertheless concluded that the survey results suggested that there was a "recognition of a problem of alarming magnitude." H. R. Rep. No. 2388, 84th Cong., 2d Sess. Appendix B reprinted in 1956 U.S. Code Cong. & Ad. News 3274, 3297 (hereinafter cited as House Report on Narcotic Control Act of 1956).

[9] Terry and Pellens, supra note 5, at 52.

[10] 1983 OCED Report, supra note 2, at 4.

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[11] Terry and Pellens, *supra* note 5, at 69.

[12] *Id.* at 64.

[13] *Id.* at 73.

[14] *Id.* at 74-75. This factor, more than any other, explains why in 1914 "female addicts substantially predominated." *House Report on Narcotic Control Act of 1956*, *supra* note 8, *reprinted in* 1956 U.S. Code Cong. & Ad. News at 3299. *See also* Kaplan, *supra* note 2, at 64:

> [In Pre-Harrison Act days] opiate addicts tended to be middle-class and middle-aged women from rural areas or small towns. They took their morphine or opium orally and certainly were not regarded as particularly criminal . . . .

[15] Pellens & Terry, *supra* note 5, at 76-77. It was said in 1928 that "[p]robably no remedy was heralded so enthusiastically as was heroin." *Id.* at 76. Indeed, some physicians even recommended heroin as a treatment for "chronic intoxification" to morphine and codeine. *Id.* *But see* Kaplan, *supra* note 2, at 5, citing the Terry and Pellens discussion of early medical literature:

> While some early articles speculated that heroin might not be addictive, others at the same time warned of this possiblility. Not only was there never a scientific conviction expressed that heroin was nonaddictive, it was never advertised as such.

The American Opium Commission, established by an Act of Congress in early 1908, investigated domestic opium use during that year. In response to the results of this investigation, Congress passed "An Act to Prohibit the Importation and Use of Opium for Other Than Medicinal Purposes" in 1909, which among other things, permitted the importation of opium for medicinal purposes but only to 12 ports of entry. However, it did not regulate domestic opium production and manufacture or the interstate shipment of opium products:

> Opium products were still available without a physician's prescription and were being marketed throughout the country through retail outlets and a growing mail order trade.[16]

Another motivation for the passage of the 1909 Act was the realization that the United States could not continue to advocate measures to ameliorate the opium problem in the Far East without taking serious steps to deal with its own "home problem."[17] Although considered a necessary first step, the 1909 Act was subsequently adjudged to be seriously defective in that it "contain[ed] no provision against the possible intrastate

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It was not until 1910 that the medical profession generally recognized the "dangers of substituting heroin for other opium derivatives and of employing it where any other derivative would be contraindicated." Terry and Pellens, supra note 5, at 85.

[16] 1983 OCED Report, supra note 2, at 5; see also Terry and Pellens, supra note 5, at 90 ("counter sales of these drugs had been the rule in most states").

[17] Terry and Pellens, supra note 5, at 749.

manufacture of smoking opium. It [did] no more than exclude this form of the drug from the United States."[18] Because few States had effective laws against the manufacture of smoking opium in addition to the proscriptions on its sale and use, that gap could frustrate the objectives of Federal and State laws.

Shortly before the enactment of the Act of 1909 an

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[18] Id. at 750. The Congress attempted to rectify the perceived flaws in the 1909 Act. On January 17, 1914, two bills were approved: H.R. 1966 prohibited the transshipment of smoking opium through the United States to other countries and also made it illegal to export opium or cocaine, or any derivative thereof, to any other country, which prohibited the import thereof; and H.R. 1967 imposed a prohibitory internal revenue tax of $300 a pound on would be manufacturers of smoking opium who were also required to file bonds in an amount of not less than $100,000.

In 1922, the Congress enacted the Narcotic Drugs Import and Export Act (Ch. 202, 42 Stat. 596), also known as the Jones-Miller Act, to correct other perceived deficiencies or gaps in the Act of 1909, i.e., the absence of a prohibition on in-transit shipment or transshipment of opiates other than smoking opium, and cocaine, of a restriction on the importation of opium products, other than smoking opium and of coca leaves and its derivatives, and of adequate statutory restrictions on the exporting of opium products, other than smoking opium, and of coca leaf-derived products. Among other things, the Jones-Miller Act made it illegal to import any narcotic drug into the United States, except amounts necessary for medical uses; to transship narcotics, except smoking opium, to other countries except upon official approval; and to export narcotics to countries which had not ratified the International Opium Convention of 1912 and which had not instituted adequate controls relating to the importation of narcotics to be used for medical purposes. Section 2(b) of the Jones-Miller Act was amended to prohibit the importation of crude opium for the purpose of manufacturing heroin; this amendment however did not make the medical use of heroin illegal.

The Jones-Miller Act also created a Federal Narcotics Control Board, which was given the responsibility to determine the amount of crude opium and coca leaves that could be imported legally and the adequacy of other countries' narcotic import controls. Except as otherwise provided, the enforcement of the Act was vested in the Department of the Treasury.

International Opium Commission, consisting of the representatives of 13 nations was convened in Shanghai at the initiative of the United States.[19] The Shanghai Commission has been described as the "first international effort at the solution of the opium problem."[20] Although originally conceived of as an organization for investigating Far East opium use and trafficking, the Shanghai Commission was transformed into a body for examining worldwide opium use and trafficking because opium addiction had spread to other parts of the world, especially to the United States, and because producer countries were not restricted to the Far East.[21] The Shanghai Convention unanimously adopted several resolutions for consideration by the governments of the participating nations, including the following three:

> (1) Consider the desirability of reviewing each country's system of regulation of the use of opium in light of the discrepancies among countries' regulatory systems;
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> (2) Adopt measures to prevent the exporting of opium and its derivatives to countries which prohibit the importation of such items; and

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[19] The American initiative was in part a response to pressure from American missionaries in China who objected to the exporting of opium to that country "on grounds of morals, public health and Chinese sovereignty." Kaplan, supra note 2, at 60.

[20] Terry and Pellens, supra note 5, at 629. Six years before, in 1903, the United States had established a commission to study the Philippine opium problem. As a result of this study, the importation of opium into the Philippines, except for medicinal purposes, was prohibited completely in 1908. Id. at 631.

[21] Id. at 632.

(3) Take measures for the gradual suppression of opium smoking in each country's own territories and possessions.[22]

Because of the unanimity achieved by the Shanghai Commission, the United States on September 1, 1909, proposed to the other participating countries that an international conference be held to "conventionalize the resolutions adopted at Shanghai and their necessary consequences."[23] The conference, which was held at The Hague, began on December 1, 1911,[24] and resulted in the signing of the International Opium Convention on January 23, 1912. The Convention was ratified by the United States Senate on October 18, 1913.[25] The International Opium Convention committed its signatories to the enactment of laws designed to suppress the "abuse of opium, morphine, cocaine as well as drugs prepared or derived from these substances...."[26] In response to this international obligation and to domestic considerations, the United States passed the Harrison Act on

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[22] Id. at 633.

[23] Id. at 635.

[24] The delay was caused in part by British insistence that morphine and cocaine trafficking be added to the conference agenda because vast quantities of those drugs were being smuggled into India and China as substitutes for opium. Id. at 635-636.

[25] Id. at 652. The Hague Convention was put into effect in the United States by presidential proclamation on March 3, 1915. Id. at 658-59.

[26] International Opium Convention of January 23, 1912, set out in Appendix I to Terry and Pellens, supra note 5, at 929-937.

December 17, 1914 (Ch. 1, 38 Stat. 785),[27] which "became the cornerstone of domestic narcotics policy"[28] for nearly 65 years.

THE HARRISON ACT: 1914-1936, EARLY YEARS OF ENFORCEMENT

Section 1 of the Harrison Act provided that any person who was in the business of dealing in the covered drugs was required to register annually and to pay a special annual tax of one dollar. Section 2 made it illegal for any person to sell or in any way to give away any of the covered drugs, except pursuant to the written order of the person to whom the drug was being sold or given; the written order was required to be on a form issued by the Commissioner of Internal Revenue. Section 4 made it unlawful for anyone who had not previously registered and paid the special tax, required by Section 1 of the Act, to engage in interstate trafficking in the drugs listed. With the exception of employees of registrants and patients of physicians and dentists, Section 8 prohibited the possession of any of the drugs covered by the Act by any person who had not registered and paid the special tax imposed by Section 1. Section 9 provided that the punishment for any violation of the Act was to be not more than $2,000 or not more than 5 years in prison or both. Finally, Section 10 gave the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, the responsibility for enforcing the Act.[29]

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[27] The Harrison Act was formally entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes."

[28] *1983 OCDE Report*, *supra* note 2, at 5.

The history of enforcement under the Harrison Act was tremendously affected by Congress' chosen source of authority for the legislation, its constitutional power to lay and collect taxes. The principle of Federalism and the related concept of the States' police power were effective constraints on the scope of the Federal government's powers at the time of the Harrison Act, hence the use of the constitutional authority to tax to regulate drug-related activity.

Because the Harrison Act was superficially a measure designed to raise revenue, its stated purpose dictated that the enforcement of the Statute be the responsibility of the Treasury Department and, by the statute's own terms, of the Commissioner of Internal Revenue.[30] Despite its revenue-raising veneer, its regulatory purpose was acknowledged from the beginning:

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[29] Section 1 of the Harrison Act was amended by the Revenue Act of 1918 to increase the special annual tax on importers, manufacturers, producers and compounders to $24, on wholesalers to $12, on retailers to $6, and on practitioners to $3.00, and also to impose on importers, manufacturers, producers, and compounders an internal revenue tax of $.01 per ounce upon the proscribed drug sold or removed for consumption or sale.

[30] Section 10 of the Harrison Narcotic Act.

> Certain individuals viewed the Harrison Act as a rational way to limit addiction and drug abuse through taxation and and regulation. It was a regulatory device which, according to the American Opium Commission, "would bring the whole traffic and use of these drugs into the light of day and, therefore, create a public opinion against the use of them that would be more important, perhaps, than the Act itself" (Dr. Hamilton Wright, American Opium Commission). The Act was heralded as a method of drug abuse control and as a public awareness tool.[31]

The history of early enforcement efforts under the Harrison Act, and of the nation's drug abuse problem and policy generally, was affected in no small degree by a series of Supreme Court decisions that were handed down during the decade immediately following passage of the Act.

The Supreme Court sustained the constitutionality of the Harrison Act in United States v. Doremus.[32] In deciding the issues raised by the Government's appeal of the dismissal of the indictment against a physician who had been registered under the Act, the Supreme Court set forth general principles that governed its resolution of the issues:

> If the legislation enacted has some reasonable relation to the exercise of the taxing authority conferred by the Constitution, it cannot be invalidated because of the supposed motives which induced it.

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[31] OCDE 1983 Report, supra note 2, at 5.

[32] 249 U.S. 86 (1919).

> The Act may not be declared unconstitutional because its effect may be to accomplish another purpose as well as the raising of revenue. If the legislation is within the taxing authority of Congress - that is sufficient to sustain it.[33]

The Supreme Court sustained the constitutionality of § 2 of the Act on the ground that it did relate to the raising of f revenue.[34]

On the same day that the Supreme Court decided Doremus, it also answered in Webb v. United States[35] the following question in the negative: whether an order for morphine, which is issued by a physician to a habitual user who is not under his professional care and which is issued not for the purpose of curing the habit but for maintenance, is a "prescription." It did so because it concluded that "to call such an order...a physician's prescription would be so plain a perversion of meaning that no discussion of the subject is required."[36]

The Court extended its Webb Ruling in United States v. Behrman by holding that an order issued by a physician for large doses of proscribed drugs, which were not prescribed for the purpose of treating a condition other than the addiction itself and which were to be self-administered by the addict, to a person, who was addicted and who was under the physician's personal care, constituted a violation of the Harrison Act.[37] In doing so, the Court implicitly agreed with the district judge that "prescriptions in the regular course of practice did not include the indiscriminate doling out of narcotics in such quantity to addicts as charged in the indictments."[38]

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[33] Id. at 93-94.

[34] Id. at 94.

[35] 249 U.S. 96 (1919).

[36] Id. at 99-100.

The Harrison Act, as construed by the Supreme Court, was the statutory framework within which Federal drug strategies were devised and implemented over the next half-century. However, early enforcement efforts and priorities under the Harrison Act did have somewhat unintended and undesirable consequences.

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[37] 258 U.S. 280, 289 (1922).

[38] *Id*. at 287. The holding in *United States* v. *Behrman* was later restricted to its facts by *Linder* v. *United States*, 268 U.S. 5(1925). In *Linder*, a physician had prescribed *small* dosages of proscribed drugs for the relief of an addict. In reversing the physician's conviction for violation of the Harrison Narcotic Act, the Court distinguished *Behrman*:

> The enormous quantity of drugs orderd, considered in connection with the recipient's character, without explanation, seemed enough to show prohibited sales and to exclude the idea of *bona fide* professional activity. The opinion cannot be accepted as authority for holding that a physician, who acts *bona fide* and according to fair medical standards, may never give an addict moderate amounts of drugs for self-administration in order to relieve conditions incident to addiction. Enforcement of the tax demands no such drastic rule, and if the Act had such scope it would certainly encounter grave constitutional difficulties.

268 U.S. at 22.

As noted previously, the responsibility for enforcement of the Harrison Act was given initially to the Commissioner of Revenue, subject to review by the Secretary of the Treasury. In 1915, 162 collectors and agents in the Miscellaneous Division of the Internal Revenue Service were given the responsibility under the Harrison Act for restricting the sale of proscribed drugs. Meanwhile, the administration and enforcement of the National Prohibition or the Volstead Act,[39] which was adopted to enforce the Eighteenth Amendment, was committed to the Commissioner of Internal Revenue who created a prohibition unit. Because it seemed logical to place responsibility for enforcement of the Harrison Act within this Prohibition Unit, a Narcotics Division was created in that unit in 1919 with a staff of 170 agents and an appropriation of $270,000.[40] This organizational unit for the enforcement of the Harrison Act existed until April 1, 1927, when legislation creating a Bureau of Prohibition and a Bureau of Customs, to be headed by Commissioners, within the Department of Treasury, was enacted.[41] The 1927 legislation also transferred to the Secretary of the Treasury all powers and duties that had been conferred by the revenue and prohibition laws upon the Commissioner of Revenue relating to intoxicating liquors and narcotics. In addition, the Secretary was authorized to delegate such powers and duties to the Commissioners of Prohibition and Internal Revenue. The enforcement of the narcotics laws subsequently was delegated to a narcotics unit under the direction of the Deputy Commissioner of Prohibition.[42]

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[39] Ch. 85, 41 Stat. 305 (1919).

[40] OCDE 1983 Report, supra note 2, at 6.

[41] Act of March 3, 1927, ch. 348, 44 Stat. 1381.

Enforcement efforts under the Harrison Act from 1914 through 1929 were controversial. Following the expansive constructions of the Harrison Act by the Supreme Court in Doremus, Webb, and Behrman, thousands of additional prosecutions were undertaken as a result of investigations conducted by agents of the Narcotics Division of the Prohibition Unit. It has been estimated that over 50,000 individuals, including many physicians and others who were required to register under the Act, were charged with violating the Act during the period of 1914-1922.[43] After this initial burst of arrest activity directed against registrants, the Narcotics Division turned its attention to closing clinics that had been established to conduct research and treat large numbers of addicts who could not afford private care.[44] Because of pressure by the American Medical Association, which had initially welcomed the Harrison Act but which later came to view the actions of the Narcotics Division as harassment and an improper Federal intrusion into the practice of medicine, the Department of the Treasury encouraged its agents to focus on the "blatantly illegal importation and sale of narcotics."

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[42] Permanent Subcomm. on Investigations of the Senate Committee on Government Operations, Federal Narcotics Enforcement, S. Rep. No. 1039, 94th Cong., 2d Sess. 5 (1976) (hereinafter cited as 1976 PSI Interim Report).

[43] 1983 OCDE Report, supra note 2, at 6. Seventy-five percent of the cases eventually were dropped. Id.

[44] Pellens and Terry, supra note 5, at 90. More than 40 of these clinics operated at one time or another nationwide, and they all were declared illegal and closed. Id. at 90-91. See also 1983 OCDE Report, supra note 2, at 6.

Despite this change in enforcement direction, the earlier enforcement focus had a damaging, long-term impact. Because of the mere threat of prosecution under the Act, the "interest of physicians in these cases [of narcotic addiction]" declined and "they even began to refuse to prescribe."[45] In closing the clinics, which had been established to treat those who were unable to afford private care, the Federal government may have impeded--albeit unintentionally--research into narcotic effects, use and addiction and as a result interferred with the development of efficacious medical treatment.[46] Finally, the Federal government's early success in decreasing the supply of narcotic drugs from licit sources, i.e., registrants, to drug users forced those users to seek out illicit sources of supply.[47]

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[45] Terry and Pellens, supra note 5, at 91. Apparently, the Supreme Court's later narrowing of the scope of the Harrison Act in Linder v. United States, 268 U.S. 5 (1925) , did not do much, if anything, to overcome the lingering effects of earlier constructions and prosecutions.

[46] Terry and Pellens, supra note 5, at 90-91.

[47] Id. at 91.

The history of enforcement of the Harrison Act during the fifteen years following its enactment illustrates the operation of a principle that has been validated repeatedly since that time: drug demand will result in the creation of supply channels to satisfy the demand. An effective drug abuse policy requires a systematic and long-term demand reduction component; unfortunately, there was no such component of the Federal policy in the more than 50 years following the enactment of the Harrison Act.[48]

Enforcement efforts were burdened, however, by public dissatisfaction with the activities of the Narcotics Division, which was tainted by its association with the country's anti-liquor laws. The public dissatisfaction intensified because of a scandal involving falsification of arrest records and charges relating to payoffs by, and collusion with, drug dealers.[49] In response, Congress removed the responsibility for enforcing the Federal drug laws from the Bureau of

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[48] A bill "to provide aid from the United States for the several states in prevention and control of drug addiction and the care and treatment of addicts" was introduced in Congress in 1919, but the bill was not passed. Id. at 781.

Drug law enforcement efforts were not similarly treated. For example, in March of 1928, a Federal law was enacted that was designed to make it easier for narcotics agents to infiltrate and disrupt drug trafficking organizations. Prior to this time, agents could buy information, but not drugs, with Federal money; instead, agents had to use their own funds to buy narcotics. As a result of the legislation, agents were thereafter permitted to use Federal money for "buys."

[49] 1983 OCDE Report, supra note 2, at 6.

Prohibition, which was itself incorporated into the Department of Justice. Drug enforcement was transferred in 1930 to a newly created Federal Bureau of Narcotics (FBN) within the Department of the Treasury, which was headed by a Commissioner of Narcotics.[50] Although the FBN was primarily responsible for the enforcement of the Harrison Act and related drug laws, the task of preventing and interdicting the illegal importation and smuggling of drugs remained with the Bureau of Customs.[51] With one major exception to be discussed at the beginning of the next section, the Federal statutory and organizational structure relating to narcotics that existed on July 1, 1930, remained in place for the next 35 years.

1937-1969: INTENSIFICATION OF PRESSURE FOR FUNDAMENTAL CHANGE IN FEDERAL DRUG POLICY

Marijuana was not made subject to the Harrison Act or to the Narcotic Drugs Import and Export Act (the Jones-Miller Act) because it was not viewed as a particularly dangerous drug.[52] In addition, because of its use in the making of rope, twine, veterinary medicines, and other products, marijuana's commercial value was thought to outweigh any deleterious effects from its abuse.[53] However, as marijuana use became widespread in

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[50] Act of June 14, 1930.

[51] 1976 PSI Interim Report, supra note 42, at 5.

[52] 1983 OCDE Report, supra note 2, at 6-7.

[53] Id. at 7.

America, concern about its use also spread. Due to the efforts of a "small but vocal group of crusaders,"[54] the States began to pass legislation to prohibit all marijuana-related activity. By 1931, "all but two states West of the Mississippi and several more in the East had enacted prohibitory legislation making it a criminal offense to possess or use the drug."[55] The FBN initially minimized the dangers of marijuana use, and in its 1932 annual report, it instead urged the States to adopt a Uniform State Narcotics Law.[56] Such a law was drafted in 1932, and it included an optional marijuana provision.[57]

By 1937 every state had prohibited marijuana use.[58] However, faced with continuing intensive lobbying efforts, the FBN did become an "ardent supporter" of marijuana legislation,[59] which finally was embodied in the Marihuana Tax Act 1937.

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[54] Id.

[55] National Commission on Marihuana Drug Abuse, Marihuana: A Signal of Misunderstanding 14 (March 1972) (hereinafter cited as 1972 Marihuana Report).

[56] 1983 OCDE Report, supra note 2, at 7.

[57] 1972 Marihuana Report, supra note 55, at 14.

[58] Id. at 14. The FBN's early reluctance to support the call for Federal marijuana legislation is somewhat surprising in light of Congress' earlier classification of marijuana, along with opiates and cocaine, as a habit-forming drug in legislation establishing two "farms" or Public Service Hospitals for the treatment of narcotics addicts. Id. at 104.

[59] 1983 OCDE Report, supra note 2, at 7.

The Marihuana Tax Act was nominally a revenue measure patterned after the Harrison Narcotic Act. It required that any person whose business related to marijuana to register and pay a special tax. In addition, the transference of marijuana had to be pursuant to a written order on a form issued by the Secretary of the Treasury and the transferee was required to pay a tax of $1.00/ounce if he had registered and $100.00/ounce if he had not. Finally, the Act made the transferor liable for the transfer tax if a transfer were made without an order form and without payment of the tax by the transferee.[60]

From the late 1930's through the 1950's, the FBN's enforcement efforts were directed almost exclusively at disrupting the illegal importation of drugs into this country and to making cases against distributors and dealers. Indeed, in 1942 the FBN recognized that it was necessary to eradicate crops in Mexico if its interdiction efforts were to achieve greater success. In that same year Congress enacted the Opium Poppy

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[60] The United States Supreme Court recognized that the Marihuana Tax Act had both regulatory and revenue purposes:

> In enacting the Marihuana Tax Act, the Congress had two objectives. "First, the development of a plan of taxation which will raise revenue and at the same time render extremely difficult the acquisition of marihuana by persons who desire it for illicit uses and, second, the development of an adequate means of publicizing dealings in marihuana in order to tax and control the traffic effectively.

United States v. Sanchez, 340 U.S. 42, 43 (1950).

Control Act of 1942, which, among other things, prohibited the domestic production of the poppy without FBN permission.[61]

During a great part of this period the FBN was handicapped to some degree by a shortage of agents and inadequate budgets. In the Spring of 1956, a Congressional Committee found that:

> [FBN] is one of the few Federal agencies whose personnel and funds have not been increased to reflect population growth and greater responsibility. Over a period of 25 years, the Federal narcotic laws have been enforced with a force of approximately 227 agents and an average budget of less than $2 million. This restriction on manpower and operating funds has seriously curtailed investigations of the illicit traffic in the United States and of sources of supply in foreign countries.
>
> Because of budget limitations, the present force of 250 Federal narcotic agents is 25 short of the number authorized by the Congress. By way of comparison, New York City has approximately 200 police officers assigned specifically to narcotic enforcement.[62]

These statistics suggest that, during this time, drug abuse and trafficking were not the Federal priorities that they are today.

Despite the handicaps that the FBN operated under during this period, it nevertheless enjoyed a degree of success. According to LCN informer Joseph Valachi, the tactics used by the

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[61] Ch. 720, 56 Stat. 1045 (Dec. 11, 1942).

[62] Report to House Comm. on Ways and Means from Subcomm. on Narcotics: Illicit Traffic in Narcotics, Barbiturates, and Amphetamines, 84th Cong., 2d Sess., reprinted in 1956 U.S. Code Cong. Admin. News 3289, 3301.

FBN to infiltrate and disrupt trafficking organizations caused some LCN chieftains to rethink the advisability of their continued participation in the drug trade. According to Valachi, Frank Costello, then acting boss of the Luciano Family, ordered its members to stop trafficking in drugs in 1948.[63] One of the principal reasons for the edict was explained as follows:

> Much more important . . . was the dogged harassment of the Bureau of Narcotics. The Cosa Nostra despised--and feared--[the FBN] . . . .
>
> The Narcotics Bureau, unlike the FBI, which tends to look down its nose at it, does not depend on the informant system for much of its intelligence but regularly engages its agents in dangerous undercover work; they are, as a result, . . . highly motivated, less disciplined generally more daring and innovational, occasionally corruptible. Above all else, the [FBN] was the first to recognize the existence of an organization like the Cosa Nostra, and no other arm of the law has put more of a crimp in its operation.[64]

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[63] P. Maas, The Valachi Papers 236 (Book Club ed. 1968).

[64] Id. at 237. James Fratianno, who was made a member of an LCN family in the late 1940's testified before this Commission about the LCN rule concerning drugs that was in effect at the time that he was initiated:

Harmon:	Now are there certain rules once one is made a member that became obvious to you during the course of the ceremony?
Fratianno:	Yes, sir.
Harmon:	What were those rules?
Fratianno:	Well, they tell you later, they tell you what--while I was in the room, they says that you could not fool around with narcotics.
Harmon:	Why was that?
Fratianno:	Well, because it drew too much heat on the families. They never fool

Although continuing to warn of the dangers of drug use, the FBN, especially during the earlier part of the period, "adopted a more moderate approach in its dealings with Congress as well as

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	around with narcotics as long as I can remember.
Harmon:	That means that the family as an institution was not involved in the narcotics trade?
Fratianno:	No. If you wanted to, you would have to do it on your own. In other words, there wasn't a law that you couldn't, but they rather you didn't.
Harmon:	And, if you were arrested for narcotics trafficking, would the family back you by providing you with lawyers and other services?
Fratianno:	No, they would not.

Hearings II: Organized Crime and Money Laundering, before the President's Commission on Organized Crime 26-27 (March 1984). See also, Joseph Bonanno, A Man of Honor 209 (1983):

> Aside from introducing Gambino to the important men in our world, another item on the Apalachin agenda was supposed to be the narcotics issue. My tradition outlaws narcotics. It had always been understood that "men of honor" don't deal in narcotics. However, the lure of high profits had tempted some underlings to freelance in the narcotics trade.

The statements of Messrs. Bonanno, Costello, and Fratianno notwithstanding, practices always diverged from the alleged LCN policy concerning drugs. For example, FBN officials testified before a Congressional committee, that "95 percent of the heroin smuggled into the United States since World War II has been controlled by Mafia gangsters." Attorney General William French Smith was certainly supported by the historical record when he said that "[t]he popular notion that the syndicate -- or traditional organized crime -- stays out of drugs is simply not true." Remarks of the Honorable William French Smith, Ceremony to Announce President Reagan's Program to Combat Drug Trafficking and Organized Crime (Oct. 14, 1982).

the American people."[65] The Bureau's approach reflected the attitude of the American public, which appeared to consider the drug problem to be restricted to small groups at the periphery of society, with no great societal impact.[66]

In the 1950's the rather complacent attitude toward the drug problem began to change. The first indication of greater concern was reflected in the enactment of the Boggs Act on November 2, 1951,[67] which generally increased the penalties for violations of the narcotic and marijuana laws.[68] The primary motivations for the passage of the Boggs Act were the inadequacy of penalties under the existing law as deterrents and an increase in drug addiction. With respect to the former, Congress relied on statistics showing that the rate of recidivism among drug violators had increased substantially over a 15-year period of time; in 1935, 40 percent of those convicted of narcotics violations had prior drug convictions, while 63.6 percent of those convicted and sentenced during the fiscal year ending June

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[65] 1983 OCDE Report, *supra* note 2, at 7.

[66] *Id.* at 7.

[67] Ch. 666, 65 Stat. 767.

[68] The Boggs Act did several things, including the following: Fixed minimum and maximum prison terms of from 2 to 5 years for a first violation of the Narcotic Drugs Import and Export Act and of the internal-revenue laws relating to narcotics and marihuana, 5 to 10 years for a second offence, and 10 to 20 years for a third on subsequent offenses; and precluded suspension of sentence or probation on a second and subsequent conviction.

30, 1950 were recidivists.[69] Congress concluded that drug addiction was increasing on the basis of statistics showing that between 1946 and 1950 there had been a 100 percent increase in the number of narcotic laws-related arrests and that the average age of persons committed to a Public Health Service Hospital had declined from 37.5 to 26.7 years, over a five year period.[70]

Encouraged by the purported success of the Boggs Act, Congress passed the Narcotic Control Act of 1956, which further increased the penalties for drug violations.[71] Among other things, this 1956 Act raised the permissive maximum sentences for violations of the narcotic possession statutes; imposed new mandatory minimum sentences and increased the permissive maximums for trafficking violations; eliminated probation, suspension of service, or parole for all cases except those involving a first offender possessor; authorized FBN and Customs agents to carry firearms and to execute and serve search and arrest warrants; made the sale of heroin to individuals under 18 years of age a capital offense, although the death penalty was not made mandatory but could be imposed only if the jury specifically so directed; and made the smuggling of marijuana a violation of the Narcotic Drugs Import and Export Act.

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[69] S. Rep. No. 1051, 82d Cong,. 1st Sess., reprinted in 1951 U.S. Code Cong. and Ad. News 2602, 2604.

[70] Id., reprinted in U.S. Code Cong. & Ad. News at 2603-2604. According to the same committee report, longer prison sentences for violators of the narcotic laws who were themselves addicts would permit them to receive longer periods of medical treatment. Id., reprinted in U.S. Code Cong. & Ad. News at 2602.

[71] Ch. 629, 70 Stat. 567 (July 18, 1956).

The severe penalties imposed by the Narcotic Control Act of 1956 were adopted even though Congress found that, as a result of the Boggs Act,[72] "narcotic addiction and the illicit narcotic traffic [were] generally on the decline in the United States."[73] Because the stringent penalties imposed by the Boggs Act were thought to be successful in decreasing drug addiction, the 84th Congress concluded that the imposition of even more severe penalties would "be the strongest and most effective deterrent to narcotic addiction and illicit drug traffic."[74] Finally, Congress was of the view in enacting the Narcotic Control Act of 1956 that "suppression of the illicit drug traffic" would be the most important contribution that the Federal Government could make to the successful and permanent rehabilitation of drug addicts.[75] Congress thus sought to reduce the demand for drugs through reducing their supply.

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[72] H.R. Rep. No. 2388, 84th Cong., 2d Sess., reprinted in 1956 U.S. Code Cong. & Ad. News 3274, 3281. Support for the Congressional finding that drug addiction was on the decline allegedly was provided by statistics indicating that arrests under the narcotic laws had declined substantially from their post-war peak year of 1952: this decline in arrests was interpreted to reflect a decline in drug trafficking due to greater deterrence provided by the Boggs Act, which in turn was taken to reflect, or to have caused, a decline in drug addiction. Id. It apparently never occurred to the Congressmen that the decline in arrests could have been explained by an increase in the competence of traffickers or by a decrease in the effectiveness of law enforcement or by a combination of both. Whatever the significance of the arrests figures was, the interpretation of the numbers in 1956 illustrates propositions that have been validated repeatedly throughout the history of drug enforcement in this country: Statistics concerning drug trafficking and use are at best educated guesses, which are merely suggestive of scope of the problem, and the significance of such statistics can be evaluated in any number of ways. See infra pp. 6-11 to 6-18 for a detailed discussion of drug data gathering.

[73] Id., reprinted in 1956 U. S. Code Cong. and Ad. News at 3281. The Committee also stated that the drug abuse problem had continued unabated in New York, Chicago, Los Angeles, Detroit, and in certain parts of Texas. Id. The Committee relied on an FBN estimate that there were 60,000 addicts in the United States. Id.

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[74] Id., reprinted in 1956 U.S. Code Cong. & Ad. News at 3283.

[75] Id., reprinted in 1956 U.S. Code Cong. & Ad. News at 3286. In this single statement the Committee betrayed the Federal Government's almost exclusive reliance on, and bias for, approaches to reduce supply, which has characterized so much of the history of this country's fight against drug abuse and trafficking. It is true that Congress established two Public Health Service Hospitals, the first in 1928 in Lexington, Kentucky, to treat addicts and to conduct "research studies in the properties of narcotic drugs and their effects upon man." Id. at 3285. To this extent, and even if it did not realize it, the Federal government was pursuing a strategy to reduce demand. However, adoption of this approach went only so far: The State and local governments were thought to have the major responsibility, without much, if any, significant help from the Federal Government, for providing and improving treatment, rehabilitation and follow-up care for successfully treated and recently released drug addicts. Id. at 3286.

The general skepticism toward approaches to reduce demand, which has pervaded most of the history of the nation's drug policy until recently, was best expressed in a 1956 report by a Subcommittee on Narcotics of the House Committee on Ways and Means:

> Recommendations were presented . . . that an educational program be instituted in the schools to make students aware of the evils of narcotics. However, careful consideration by the subcommittee of the efficacy of such an educational program has led to the conclusion that it would tend to arouse curiosity on the part of impressionable youth of our Nation unless undertaken with extreme caution.
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> X X X
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> The subcommittee is, therefore, opposed to direct routine education of our youth . . . .

Id. at 3305.

Public concern over the problem of drug abuse, which had been relatively dormant during the 1940's and 1950's, flared during the 1960's.[76] The intensification of the national concern resulted in increasing pressure for Federal initiatives in the area. In response to this development, a White House Conference on Narcotics and Drug Abuse was convened in 1962, which resulted in the establishment of the President's Advisory Commission on Narcotics and Drug Abuse (Prettyman Commission) on January 15, 1963.[77]

The Prettyman Commission's final report, submitted to President Kennedy in November 1963, included 25 recommendations,[78] the substance of several of which were:

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[76] Subsequent to the passage of the Narcotic Control Act of 1956 but before the intensification of public concern relating to drug use and abuse in the 1960's, Congress enacted the Narcotics Manufacturing Act of 1960. Pub. L. No. 86-429, 74 Stat. 55 (Apr. 22, 1960). This legislation was designed to permit the United States to satisfy its internationl obligations under the 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, which sought to limit to medical and scientific uses the manufacture of certain listed natural narcotic drugs; and a 1948 protocol, which sought to make the obligations imposed by the 1931 convention applicable to synthetic drugs, first developed in 1940, which had an addiction liability similar to morphine or cocaine, *e.g.* mepheridine and methadone. S. Rep. No. 1077, 86th Cong., 2d Sess., *reprinted in* 1960 U.S. Code Cong. & Ad. News 1876, 1877. The 1960 legislation established a system of licenses and quotas for all manufacturers with respect to the manufacture of narcotic drugs, both natural and synthetic, for medical and scientific purposes. *Id.* at 1878. Because they were not narcotics, barbiturates, amphetamines, and tranquilizers were not covered by the Narcotics Manufacturing Act. *Id.* at 1877.

[77] S. Rep. No. 1077, 86th Cong., 2d Sess., *reprinted in* 1960 U.S. Code Cong. & Ad. News at 1877.

[78] H.R. Rep. No. 1444, 91st Cong., 2d Sess., *reprinted* in 1970 U.S. Code Cong. & Ad. News 4566, 4582-4587 (hereinafter cited as *1970 House Report*).

(1) Transfer the enforcement and investigative functions of the FBN relating to illicit transactions in narcotic drugs and marijuana from the Department of Treasury to the Department of Justice;

(2) Transfer the responsibilities of the FBN relating to the regulation of the legitimate traffic in narcotic drugs and marijuana from the Department of the Treasury to the Department of Health, Education and Welfare;

(3) Substantially increase the number of Federal agents assigned to the investigation of the illicit importation of and trafficking in narcotic drugs, marijuana, and dangerous drugs;

(4) Transfer the responsibility for investigating the illicit traffic in dangerous drugs from the Department of Health, Education and Welfare to the Department of Justice; and

(5) Strictly control, by Federal statute, all non-narcotic drugs capable of producing serious psychotoxic effects when abused.

Within 18 months of the issuance of the Commission's final report,[79] Congress adopted the recommendation regarding the diversion of "dangerous drugs" from legal channels. The resulting Drug Abuse Control Amendments of 1965[80] mandated, among other things, recordkeeping and inspection requirements for depressant and stimulant drugs, and specifically for barbiturates and amphetamines, "throughout the chain of distribution, from the basic manufacturer to (but not including) the ultimate consumer."[81] The Drug Abuse Control Amendments of 1965 were passed because of perceived serious problems associated with the diversion of depressant and stimulant drugs from licit channels:

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[79] Because of President Kennedy's assassination on November 22, 1963, and because of the initial priorities and concerns of the new Johnson Administration, the Prettyman Commission's recommendations were not implemented immediately, either by legislation or Executive Order.

[80] Pub. L. No. 89-74, 79 Stat. 226 (July 15, 1965).

> [T]estimony showed that over 9 billion barbiturate and amphetamine tablets are produced annually in the United States. It is estimated that over 50 percent, or 4 1/2 billion tablets, are distributed through illicit channels. The human toll of drug abuse cannot be measured for it affects not only the abuser but his family and the community around him. Drug abuse is closely bound up with juvenile delinquency. It also contributes to the rising crime rate in the United States.[82]

To carry out the new enforcement obligations imposed by the Drug Abuse Control Amendments of 1965 another agency was created; a Bureau of Drug Abuse Control (BDAC) was established within the Department's Food and Drug Administration. The Bureau of Customs, however, retained responsibility for the enforcement of laws relating to the importing and exporting of depressant and stimulants drugs.[83] With the establishment of the BDAC on February 1, 1966, the Department of the Treasury's virtual monopoly of the enforcement of Federal drug laws ended.

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[81] S. Rep. No. 337, 89th Cong., 1st Sess., *reprinted in* 1965 U.S. Code Cong. Ad. News 1895, 1900. The legislation also authorized the Secretary of Health, Education, and Welfare, by regulation, after an opportunity for hearing, to designate other drugs as depressant or stimulant drugs within the scope of the Act, and it authorized officers and employees of the Secretary who had been designated to conduct investigations relating to depressant, stimulant or counterfeit drugs to, among other things, carry firearms and to execute and serve search and arrest warrants.

[82] *Id.* at 1896.

[83] *1976 PSI Interim Report*, *supra* note 42, at 5.

Within 16 months of the enactment of the Drug Abuse Control Amendments of 1965 Congress passed an enlightened piece of legislation: The Narcotic Addict Rehabilitation Act of 1966.[84] This Act did many things, including: authorizing a district court to order the civil commitment of an individual, who was an addict, who had been charged with certain offenses against the United States, and who elected to do so, to the Surgeon General for treatment of his addiction and rehabilitation, in lieu of prosecution; requiring a district court to commit an individual who had been convicted of certain offenses against the United States and who was an addict to the custody of the Attorney General for treatment and rehabilitation; permitting any narcotic addict to file a petition with a United States Attorney requesting that he be admitted to a Public Health Service hospital for treatment and rehabilitation; and authorizing the Surgeon General to establish rehabilitation and posthospitalization care programs for narcotic addicts and to provide financial assistance to the States to establish similar programs.

As the House Committee on Judiciary, one of the Congressional committees which reported on the proposed bill, observed, the Narcotic Addict Rehabilitation Act of 1966:

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[84] Pub. L. No. 89-793, titles I-IV, 80 Stat. 1438-1488 (Nov. 8, 1966).

> ...mark[e]d a fundamental reorientation toward the problem of narcotics addiction. The Attorney General in his testimony before the Committee stated that for too long the law had stressed punitive solutions and neglected medical and rehabilitative measures.[85]

The 1966 Act embodied a proposition that had tended to be overlooked in the past: successful treatment and permanent rehabilitation of drug users, i.e., reduction of demand for drugs, must be an essential component of Federal law enforcement efforts.

A detailed evaluation of the Federal drug strategy that was released in 1979 accurately summarized what the Federal approach had been prior to the late 1960's:

> Early efforts to deal with the problem primarily focused on reducing the supply of drugs, first through taxation, then by prohibition and strict legal control. The basic assumption . . . was that reducing supply and availability of drugs would lead to reduction in their use by encouraging drug-dependent individuals to detoxify, and by keeping drugs out of the hands of users.
>
> By the end of the 1950's there was a general agreement on the part of both the public and legislators that the Federal policy of strict supply reduction by itself was not enough. During the 1960's and early 1970's, as drug abuse increased and spread to new markets, the almost exclusive emphasis on supply reduction and stiff penalties was challenged with growing frequency, leading to increased research and experimentation with treatment for drug abusers.

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[85] H.R. Rep. No. 1486, 89th Cong., 2d Sess., reprinted in 1966 U.S. Code Cong. & Ad. News 4245, 4249 (footnote omitted). The Committee also recognized that an "addict himself spreads addiction." *Id*. at 4251.

> Beginning in 1968, in response to rising . . . concern . . . ., a variety of changes occurred in an attempt to curtail drug abuse.[86]

Despite the work of the Prettyman Commission and the enactment of the Drug Abuse Control Amendments of 1965, public agitation concerning crime in general, and drug abuse in particular, intensified. In response, President Lyndon B. Johnson established the President's Commission on Law Enforcement and Administration of Justice (Katzenbach Commission) in 1966 to undertake a "comprehensive study of the nation's crime problem and to provid[e] recommendations to coordinate its eradication on all fronts."[87] The Katzenbach Commission issued a report in 1967, which included a chapter on drug abuse.[88] The substance of several of the Katzenbach Commission's recommendations addressed both the demand and supply of drugs:

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[86] Comptroller General's 1979 Report, supra note 1, at 4. But see House Select Comm. on Narcotics Abuse and Control, Annual Report for the Year 1984, H.R. Rep. No. 1199, 98th Cong., 2d Sess. 10 (Jan. 3, 1985):

> Actually, it has never been possible in the 75 years of drug control to demonstrate that measures at reducing demand have ever succeeded.

To the extent that this statement suggests that efforts to reduce demand have been an essential component of the Federal drug abuse policy from its beginning, this implication is not supported by the historical record. Even though expressions of support for adequate, long-term, and systematic programs have proliferated over the last 15 years, such programs have not resulted.

[87] 1983 OCDE Report, supra note 2, at 11.

[88] 1970 House Report, supra note 78, reprinted in 1970 U.S. Code Cong. & Ad. News at 4582.

(1) Substantially increase the enforcement staffs of FBN and the Bureau of Customs;

(2) Permit courts and correctional authorities to deal flexibly with violators of the drug laws;

(3) Undertake research to develop a sound and effective framework of regulatory and criminal laws relating to dangerous drugs; and

(4) The National Institute of Mental Health should develop a core of educational and informational materials relating to drugs.

Drawing on the recommendations of the Prettyman Commission, President Johnson sent a reorganization plan restructuring the Federal drug law enforcement effort to Congress for its consideration on February 7, 1968.[89] In terms that have been repeated often since that time, President Johnson explained the reason for the proposed consolidation of drug enforcement responsibilities:

> Today, Federal investigation and enforcement of our narcotics laws are fragmented.
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> * * *
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> Neither [the FBN nor the BDAC] is in the agency which is primarily concerned with Federal law enforcement -- the Department of Justice.
>
> This separation of responsibilities... has complicated and hindered our

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[89] Reorganization Plan No. 1 of 1968, reprinted in 1968 U.S. Code Cong. & Ad. News 4734-4735.

response to a national menace.[90]

Among the most significant provisions of the plan, which became effective on April 7, 1968, were the following: the Department of Justice was given a major responsibility for the enforcement of the Federal drug laws for the first time in history by the creation within it of a Bureau of Narcotics and Dangerous Drugs (BNDD); the FBN was abolished, and its drug enforcement duties and responsibilities were shifted to BNDD; and BDAC was also abolished, and its drug enforcement duties and responsibilities were transferred to the Department of Justice.

The 1968 reorganization did not significantly affect the revenue collection functions exercised by IRS under the Harrison and Marijuana Tax Acts[91] or the responsibility of the Bureau of Customs for interdicting the smuggling of narcotics and marijuana.[92] The Plan that was intended to eliminate fragmentation in Federal drug law enforcement thus did not eliminate it entirely.

Although neither House of Congress blocked the 1968 reorganization plan, criticism of it did develop. While in agreement that merger of the FBN and BDAC would eliminate friction and duplication of effort, Congressional opponents expressed skepticism that law enforcement relating to drugs and organized crime would be in any way improved by transferring the merged entity to the Department of Justice.[93] Because Administration spokesmen had acknowledged that BDAC and the FBN had been effective law enforcement agencies, the opponents of the plan recommended that the merged entity should instead be located within the Department of the Treasury, where coordination with IRS and Customs, both of which had drug law enforcement responsibilities, could be better assured.[94] That the BNDD was apparently not to be placed within the FBI was one factor leading the dissenters to conclude that "greater overall efficiency in crime enforcement" would not be achieved by the placement of the merged entity into Justice.[95]

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[90] Id. at 4733.

[91] 1976 PSI Interim Report, supra note 42, at 7.

[92] Id. at 7-8.

FEDERAL DRUG LAW ENFORCEMENT: FROM IMPLEMENTATION OF THE 1968 REORGANIZATION PLAN TO OCTOBER 27, 1970

Two major issues during the 1968 Presidential campaign were crime and drugs.[96] Shortly after his inauguration, President Richard M. Nixon declared war on both and formed Task Force One in the spring of 1969 to "design programs that would have an immediate effect on the importation of heroin and other illegal drugs."[97] Task Force One developed and implemented Operation Intercept, the "first major interagency attempt at border interdiction," which involved more than 2,000 Customs, INS Border Patrol, and BNDD agents.[98] Because the amount of illegal drugs seized as a result of Operation Intercept was disappointingly small and because the venture seriously strained relations between Mexico and the United States, Justice Department officials concluded that successful interdiction programs required the cooperation of source countries.[99] As a result, in the fall of 1969, Operation Intercept was transformed into Operation Cooperation, which in part provided U.S. financial aid to the Mexican Government to purchase aircraft and to train agents to interdict the flow of drugs before they reached the United States borders.[100]

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[93] Id. at 17-19.

[94] Id. at 19

[95] Id. at 18. Another criticism of the reorganization plan focused on the loss of autonomy of BDAC; the Bureau was viewed as having been very successful in "reducing the number of clandestine laboratories which produced illicit amphetamines, barbiturates and hallucinogens." 1983 OCDE Report, supra note 2, at 11.

[96] 1983 OCDE Report, supra note 2, at 11.

THE COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT of 1970

The year 1970 was an important one in the history of this Nation's war against drug trafficking and drug abuse. In February of that year, President Nixon clarified the responsibilities of the various Federal agencies involved in the effort against drug trafficking by issuing a directive announcing that BNDD "controls all investigations involving violations of the laws of the United States relating to narcotics, marijuana and dangerous drugs, both within the United States and beyond its borders."[101] Several months later, the President approved guidelines, developed by the Attorney General and the Secretary of the Treasury, which increased the investigatory responsibility of Customs at ports and borders.[102] However, the most significant event in 1970 was the enactment of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (1970 Comprehensive Act).[103]

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[97] Id.

[98] Id.

[99] Id.

[100] Id.

As of 1970, numerous Federal statutes dealt with various facets of the Nation's drug trafficking and abuse problems.[104] These laws overlapped, were sometimes inconsistent, and required more than a dozen Federal agencies to enforce them.[105]

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[101] 1976 PSI Interim Report, *supra* note 42, at 20.

[102] *Id.* at 20. However, it was not until 1972 that Customs was authorized to assign its own agents abroad for the purpose of "gathering the type of foreign intelligence on the main narcotics routes which was necessary for interdiction at U.S. ports and borders." *Id.*

[103] Pub. L. No. 91-513, 84 Stat. 1236 (Oct. 27, 1970) (codified as amended in scattered sections of titles 18, 19, 21, 26, 31, 40, 42, 46, 49 U.S.C.).

[104] One of the Congressional Committees that considered a bill which, in slightly different form, eventually became the 1970 Comprehensive Act reported that since 1914 Congress had enacted more than "50 pieces of legislation relating to control and diversion, from legitimate channels, of those drugs referred to as narcotics and dangerous drugs." H.R. Rep. No. 1444, 91st Cong., 2d Sess., *reprinted in* 1970 U.S. Code Cong. & Ad. News 4566, 4571 (hereinafter cited as 1970 Rep. No 1444).

[105] 1983 OCDE Report, *supra* note 2, at 12.

In response, the 1970 Comprehensive Act was passed to collect and conform "diverse laws in one piece of legislation based upon new scientific information, the restructured Federal law enforcement efforts under Reorganization Plan No. 1 of 1968, and greater information concerning the scope of the problem."[106]

The 1970 Act comprised four titles: Title I authorized the Department of Health, Education, and Welfare to increase its efforts in drug rehabilitation, drug treatment and the prevention of drug abuse. Specifically, Title I authorized the appropriation of funds for drug abuse prevention and education programs[107] and for special project grants to programs designed to treat and rehabilitate narcotic addicts or drug dependent persons. As a result of these steps, Congress provided for a

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[106] 1970 Rep. No. 1444, supra note 104, at 4571.

[107] Although recognizing that "nonspecific authority" for drug abuse education and training, and grants therefore, had previously been embodied in the Public Health Service Act and other statutes administered by HEW, specific authority was deemed necessary because "it gives statutory emphasis to the overriding importance of these activities." Id. at 4594.

Legislation similar to Title I's education and prevention provisions was enacted six weeks after the 1970 Comprehensive Act was signed by President Nixon. The Drug Abuse Education Act of 1970 (Pub. L. No. 91-527, §§ 2-8, 84 Stat. 1385-1388) (Dec. 3, 1970), among other things, authorized the Secretary of Health, Education, and Welfare to grant, or contract out $60 million over three years in order to develop, evaluate, and demonstrate educational curricula on the use and abuse of drugs and to plan and implement community-oriented programs on drug use and dependency. Congress passed this legislation because it felt "that it [was] necessary for the Congress to place a special legislative focus upon establishing and strengthening preventive activities at all levels in the communities of the country." S. Rep. No. 1244, 91st Cong., 2d Sess., reprinted in 1970 U.S. Code Cong., & Ad. News 4843, 4846.

"greatly increased Federal effort in the fields of prevention and rehabilitation"[108] and made the National Institute of Mental Health the agency primarily responsible for drug education and prevention activities in the Federal government.

Title II of the 1970 Act, the "Controlled Substances Act," along with Title III, comprehensively addressed the law enforcement aspects of the attack on drug abuse. Among other things, Title II established five schedules into which controlled substances were and could be placed, required the registration of, and recordkeeping by, manufacturers, distributors and dispensers of controlled substances, imposed penalties for violations of the Act,[109] established a Commission on Marihuana and Drug Abuse, and authorized BNDD to add 300 agents to its staff during FY 1971.

Finally, Title III, the Controlled Substances Import and Export Act, governed the importation and exportation of controlled substances. The Attorney General was given the responsibility for maintaining the integrity of the import/export registration system that the Act created.[110]

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[108] 1970 Rep. No. 1444, supra note 104, at 4574.

[109] With one exception, the Controlled Substances Act of 1970 eliminated all mandatory minimum sentences that had been adopted for narcotics law violations by the Boggs Act and the Narcotics Control Act of 1956. A person who was convicted of engaging in a continuing criminal enterprise was required to be sentenced to between not less than 10 years and life imprisonment; such a person was also require to forfeit all profits that he had obtained in the criminal enterprise to the United States. Title II also provided a district court with the authority to sentence a convicted drug defendant who was found to be a dangerous special drug offender to imprisonment of up to 25 years.

Although primarily an effort to consolidate the myriad of laws dealing with drug trafficking and abuse that had been adopted over the years, Congress's authority for enacting the 1970 Act was predicated upon its interstate commerce power and not, as with previous narcotics laws, on the constitutional power to tax.[111] This shift had enormous implications for the way that the Federal government would and did approach drug enforcement in the future:

> [The Controlled Substances Act] set the stage for an innovation in Federal drug enforcement techniques. That innovation was assigning large numbers of Federal narcotics agents to work in local communities. No longer was it necessary to demonstrate interstate traffic to justify Federal participation in combating illegal drug use.[112]

Constitutional challenges to the 1970 Act that were predicated upon the intrastate nature of the conduct prosecuted were rejected.[113]

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[110] However, the Controlled Substances Import and Export Act specifically declared that nothing therein was intended to derogate the Secretary of the Treasury's authority under the customs and related laws.

[111] Congress specifically found that "a major portion of the traffic in controlled substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effort upon interstate commerce. . ." 21 U.S.C. § 801 (1982).

[112] 1976 PSI Interim Report, supra note 42, at 20-21.

FEDERAL DRUG ABUSE POLICY: 1970-1980

The decade of the 1970's was an extremely significant one for the development of Federal drug abuse policy in terms of new laws, organizational and operational reforms, and a growing recognition that the reduction of the demand for drugs must be given a greater emphasis. On the debit side the extent of the Nation's drug abuse problem at the end of 1980 was as great as, if not greater than, the problem in 1970. To some extent, the situation in 1980 was attributable to the continuing and unresolved debate concerning the appropriate Federal role in the national struggle against drug abuse and trafficking.

New legislative initiatives, organizations, and operational reforms relating to the Nation's drug abuse problem were adopted and implemented within a relatively short period after the enactment of the 1970 Comprehensive Act. One of the most important and innovative of these reforms was the establishment, by executive order, of the Special Action Office for Drug Abuse Prevention (SAODAP) within the Executive Office of the President on June 17, 1971.[114] The President made the Director of SAODAP his special representative with respect to all Federal drug abuse training, education, rehabilitation, research, treatment, and prevention programs and activities (exclusive of law enforcement activities and legal proceedings). In this capacity, the SAODAP Director's duties included prescribing "policies, guidelines, standards, and criteria for the maximum achievement of the goals and objectives" of Federal demand reduction programs and coordinating and evaluating all Federal drug abuse programs.

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[113] See, e.g., United States v. Lopez, 459 F. 2d 949 (5th Cir. 1972).

President Nixon did not neglect the supply reduction component of the Federal drug policy. Presidential initiatives in this area in 1971 included the establishment of the Cabinet Committee on International Narcotics Control (CCINC)[115] and of the Narcotics Traffickers Program (NTP) within IRS. The CCINC, chaired by the Secretary of State, was given the responsibility for "developing a strategy to check the illegal flow of narcotics to the United States and coordinating the efforts undertaken abroad by involved Federal departments and agencies to implement that strategy."[116]

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[114] Exec. Order No. 11,599, 36 Fed. Reg. 11,793 (1971), *reprinted in* 1971 U.S. Code Cong. Ad. News 2551. At the time that this Executive Order was issued, the President requested Congress to create SAODAP within the Executive Office of the President by legislation.

[115] In a June 17, 1971, message to Congress, the President "made narcotics control a top priority foreign policy objective." *Comptroller General's Report 1979*, *supra* note 1, at 7.

[116] *Id*. President Carter abolished the CCINC in March of 1977. *Id* at

The NTP was designed to function as a mechanism for disrupting drug trafficking by having the IRS intensively investigate top-echelon drug dealers.[117] The IRS effectively ended the NTP sometime in 1975, both because it had a relatively low revenue yield and because IRS officials felt uncomfortable in operating a program whose primary objective was not tax-related.[118]

On January 28, 1972, President Nixon took another step, designed to improve the Federal government's drug law enforcement efforts by establishing an Office for Drug Abuse Law Enforcement (ODALE) within the Department of Justice.[119] This office was to be headed by a Director who would be a Special Assistant Attorney General and who would serve as a Special Consultant to the President concerning drug law enforcement. In this role the ODALE Director was responsible for advising the President on improving the effectiveness of Federal drug enforcement and on assisting the States and local governments in strengthening their own drug law enforcement. The Director was also required to develop and implement a "concentrated program" for enforcing Federal laws concerning drug abuse prevention and for cooperating with State and local governments in the enforcement of their drug abuse laws. Finally, to ensure that all steps permitted by law were taken by Federal, State and local governments and by the private sector to prevent drug abuse, the Director of ODALE was instructed to consult regularly with the SAODAP Director. With the establishment of ODALE and SAODAP, and the presidential instruction that their Directors consult, cooperate, and coordinate, a mechanism was created within the Federal Government that, at least theoretically, could have integrated Federal strategies to reduce drug supply and demand to achieve maximum results.

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[117] Id. at 93.

[118] Id.

[119] Exec. Order No. 11,641, 37 Fed. Reg. 2,421 (1972), reprinted in 1972 U.S. Code Cong. & Ad. News 5501-5502.

That ODALE was created in early 1972, so relatively soon after the implementation of the 1968 reorganization plan, bespoke a lack of confidence in the structure and operation of the drug law enforcement system created by that plan. Indeed, ODALE was established because of the "Administration's concern that BNDD and Customs could not act with the swiftness and precision that a single agency vested with authority and power could."[120] In performing its duties and responsibilities ODALE "was empowered to take the lead in the Administration's 'war on heroin,' with a particular emphasis on street-level trafficking."[121]

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[120] 1983 OCDE Report, supra note 2, at 12.

[121] Id. at 12. The staff of ODALE was comprised of agents drawn from BNDD, Customs, IRS, and BATF and of 50 lawyers hired through the Department of Justice. Id. at 12.

Several months after the creation of ODALE, another unit, the Office of National Narcotic Intelligence (ONNI), was established within the Department of Justice to function as a clearinghouse of information that would be useful in the Administration's campaign against drug trafficking.[122] The Director of ONNI was instructed to collect and provide narcotics intelligence to any Federal, State, or local official determined to have a "legitimate official need" for the intelligence. The ONNI Director was also instructed to cooperate with the Director of ODALE to assist the latter in insuring that all feasible steps were taken to prevent drug abuse in the Nation. Although its mandate did not include the independent development of narcotics intelligence, the establishment of ONNI was the first concrete recognition by officials at the highest levels of the Federal government of the crucial role that intelligence had to play in supply reduction strategies.

Congress eventually responded positively to President Nixon's request that it enact legislation confirming his creation of SAODAP by passing the Drug Abuse Office and Treatment Act of 1972 (1972 Drug Abuse Office Act).[123] This legislation was an important event in the history of Federal drug abuse policy:

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[122] Exec. Order No. 11,676, 37 Fed. Reg. 15,129 (July 27, 1972), reprinted in 1972 U.S. Code Cong. & Ad. News 5543-5544.

[123] Pub. L. No. 92-255, 86 Stat. 65 (March 21, 1972).

> With the enactment of the [Act] Federal policy clearly called for a balanced response to the problem of drug abuse by adding a vigorous prevention and treatment component to the existing law enforcement effort.[124]

Although commitments to the "balanced response" enshrined in the 1972 Drug Abuse Office Act have been proclaimed repeatedly ever since, they have not generally been translated into action, as measured by budget authorizations and expenditures.

Congress was persuaded to enact the 1972 Drug Abuse Office Act because the witnesses who testified before its committees were "unanimously agreed that drug abuse in America had reached epidemic proportions."[125] Most of the witnesses were "generally agreed that greater emphasis on the so-called demand side of the problem is required, that is, on treatment, rehabilitation, research, education and training."[126] Congress also found that the Federal government's activities with respect to the "demand side of the drug abuse field have been carried on by at least nine different agencies and departments" and that the legislation under consideration was needed to "provide for and insure a central comprehensive coordination of the federal effort."[127]

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[124] Comptroller General's 1979 Report, *supra* note 1, at 6.

[125] H.R. Rep. No. 775, 92d Cong., 2d Sess., *reprinted in* 1972 U.S. Code Cong. & Admin. News 2045, 2047. *See also* § 101 of Pub. L. No. 92-255.

[126] H.R. Rep. No. 775, 92 Cong., 2d Sess., *reprinted in* 1972 U.S. Code Cong. & Admin. News at 2048.

[127] *Id.*

In passing the Act, Congress concluded that the "emphasis must, indeed, be changed [to strategies to reduce demand] if there is to be meaningful progress in the effort against drug abuse."[128]

The 1972 Drug Abuse Office Act did many things, including establishing SAODAP in the Executive Office of the President; making the Director of SAODAP responsible for, among other things, providing overall planning and policy, and establishing objectives and priorities, for all federal drug abuse prevention functions, making recommendations to the President concerning any Federal drug traffic prevention function, making findings and recommendations to the President concerning the resolution of conflicts involving drug abuse prevention or drug traffic prevention functions, and coordinating Federal drug abuse prevention functions with those of the State and local governments; directing the President to require development of a comprehensive, coordinated long-term Federal strategy for all drug abuse and drug traffic prevention functions; directing the Secretary of Health, Education, and Welfare to make grants to States submitting plans for establishing, conducting and coordinating projects for the development of more effective drug abuse prevention functions and to make special project grants to, and contracts with, public and private entities and individuals to develop drug abuse prevention programs; and establishing a National Institute on Drug Abuse (NIDA) to administer the programs of the Secretary of HEW relating to drug abuse prevention functions.

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[128] Id. at 2052.

The 1972 Drug Abuse Office Act was necessary and useful legislation, but it was based on the mistaken premise that the nation's drug abuse problem could be dealt with in a relatively short period of time:

> [I]t is the policy of the United States and the purpose of this Act to focus the comprehensive resources of the Federal Government and bring them to bear on drug abuse with the immediate objective of significantly reducing the incidence of drug abuse in the United States *within the shortest possible period of time* . . . .[129]

Consistent with this premise, Congress provided that SAODAP was to be abolished on June 30, 1975.[130]

There appears to have been an expectation at the time that the 1972 Drug Abuse Office Act became effective that NIDA would assume many of the programmatic functions of SAODAP on or before June 30, 1975, after the war against drug abuse had been won and only "mopping-up" operations remained.[131] This expectation no doubt was encouraged by statements made subsequent to the passage of the 1972 Act, such as that of President Nixon in September of

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[129] Pub. Law No. 92-255, § 102, 86 Stat. 65 (emphasis added).

[130] Pub. L. No. 92-255, § 104, 86 Stat. 65.

[131] S. Rep. No. 218, 94th Cong., 2d Sess., *reprinted in* 1976 U.S. Code Cong. & Ad. News 375, 376-379.

1973 that "[w]e have turned the corner on drug addiction in the United States."[132] As the historical record demonstrates, the expectation of quick success was unrealistic because of the nature of the drug problem.

The 1972 Drug Abuse Office Act reflected the realization that an exclusive reliance on strategies to reduce supply will fail to achieve the ultimate objective. Such an approach disregards the fundamental economic principle, that where a demand for a service or commodity exists, some entrepreneur, for the right price, will attempt to supply it. There is an optimal mix of approaches to reduce demand and supply that will obtain maximum results and thus achieve the goal of that policy, i.e., the elimination of drug abuse. The Federal government necessarily has a paramount and continuing role in that policy, in terms of providing leadership, resources, and support to the other participants. Experience immediately following the enactment of the 1972 Drug Abuse Office Act demonstrates that although theNation's drug abuse problem may never be eliminated, it can be reduced substantially if a long-term commitment of sufficient resources is made and unreasonable impatience for results is checked.

Despite the comprehensive restructuring of the Federal narcotics laws that had occurred in 1970, related legislative initiatives,[133] and the innovations in Federal drug law enforcement represented by ODALE and ONNI, the Nixon Administration concluded that Federal drug law enforcement continued to be hampered by interagency rivalries and jurisdictional overlaps and disputes. In response, another major restructuring of the Federal drug law enforcement machinery was announced on March 28, 1973.[134] The Nixon Administration trumpeted the 1973 reorganization plan, which was implemented on July 1, 1973, as doing for the supply side of the drug abuse problem what the 1972 Drug Abuse Office Act had done for the demand side: create an organization with the necessary resources, breadth, and leadership capacity to act decisively.[135]

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[132] Id. at 378.

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[133] Shortly after it had enacted the 1972 Drug Abuse Office Act, Congress passed another piece of legislation to reduce demand, the Narcotic Addict Rehabilitation Amendment of 1971. Pub. L. No. 92-420, 86 Stat. 677 (Sept. 16, 1972). This legislation amended the Narcotic Addict Rehabilitation Act of 1966 so that persons within its coverage could be enrolled in methadone maintenance programs. It did so by expanding the definition of treatment to include programs designed to control, as well as to eliminate, drug dependence. S. Rep. No. 92-1071, 92d Cong., 2d Sess., reprinted in 1972 U.S. Code Cong. & Ad. News 3188, 3188-3189. This legislation was deemed necessary because of the close ties between drug dependence and crime:

> Numerous studies have . . . established that the problems of heroin addiction and crime more generally are completely intertwined.
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> X X X
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> Therefore, to approach one problem is to approach both. By ameliorating the disease of narcotic addiction, it can also be realistically anticipated that we will stem the growing tide of crime in the country.

Id. at 3190.

[134] Reorganization Plan No. 2 of 1973, reprinted in 1973 U.S. Code Cong. & Ad. News 3554-3560.

The Federal drug law enforcement structure in March of 1973 was complex, as reflected in Appendix C, with no single individual or agency responsible for supervision of the overall effort. The 1973 reorganization plan was designed to overcome perceived deficiencies in existing law enforcement.[136]

The 1973 reorganization plan was motivated primarily by the beliefs of Administration officials that the aggregation of Federal drug law enforcement activities had "serious operational and organizational shortcomings" and that "enforcement work could benefit significantly . . . from consolidation of our anti-drug forces under a single unified command."[137] The most important innovation adopted by the plan was the creation of the Drug Enforcement Administration (DEA) within the Department of Justice as the "single, comprehensive Federal agency within the Department of Justice to lead the war against illicit drug traffic."[138] The DEA, to be headed by an Administrator who would report directly to the Attorney General, was to be responsible for the anti-drug functions, and would absorb the associated manpower and budgets of BNDD, ODALE, and ONNI and those of the Bureau of Customs with respect to drug investigations and intelligence.[139] The plan also provided that drug law enforcement research that had been hitherto funded by the Law Enforcement Assistance Administration would be transferred to DEA.[140]

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[135] *Id.* at 3556.

[136] Although ODALE had been conceived of as a mechanism for achieving coordination of certain aspects of Federal, State and local drug law enforcement, the Nixon Administration, in designing the reorganization, concluded that, given its charter, the office was structurally and organizationally unsuitable for accomplishing the task of overall integration of the Federal effort.

An unfortunate series of raids conducted by ODALE agents that involved mistaken identities provided another incentive for restructuring. *1983 OCDE Report*, *supra* note 2, at 12. Some of the agents involved in the raids were administratively reprimanded. In addition, Congress amended the Federal Tort Claims Act to permit suits for certain intentional violations of individuals rights. Pub. L. No. 93-253, § b, 88 Stat. 50; 1976 *PSI Interim Report*, *supra* note 42, at 29.

[137] 1973 U.S. Code Cong. & Ad. News at 3554, 3555.

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[138] Id. at 3554, 3555.

[139] The plan contemplated the abolishment of BNDD, ODALE, and ONNI. BNDD was abolished explicitly by Section 3 of the plan, which also repealed § 3(a) of the 1968 reorganization plan which created it. The abolition of ODALE and ONNI was accomplished by issuance on July 6, 1973, of Executive Order No. 11,727, 38 Fed. Reg. 18,357 (1973), reprinted in 1973 U.S. Code Cong. § Ad. News 3504-3505. Executive Order No. 11,727 (July 6, 1973) revoked Executive Order No. 11,641, which had created ODALE and Executive Order No. 11,676 which had established ONNI. Order No. 11,727 also directed the Attorney General to provide for the reassignment of the functions of ODALE and ONNI.

[140] The principal responsibilities of DEA, as they were delineated in the President's transmittal message to Congress, were:

(1) Development of overall Federal drug law enforcement strategy programs, planning, and evaluation;

(2) Investigation and preparation of criminal prosecutions for violations of Federal drug trafficking laws;

(3) Investigation and preparation for prosecution of suspects connected with illicit drugs seized at ports-of-entry and borders;

(4) Conduct of all relations with foreign drug law enforcement officials, under the guidance of the Cabinet Committee on International Narcotics Control;

While the 1973 reorganization plan reaffirmed the jurisdiction of the Bureau of Customs to conduct investigative, intelligence, and law enforcement functions relating to the suppression of drug trafficking at ports of entry and borders, it prohibited Customs from exercising those functions, as it had been previously authorized to do, at locations away from ports of entry or borders. In addition, drugs, evidence, and persons seized by customs agents at ports of entry or borders were to be turned over to representatives of the Attorney General. The plan explicitly provided that the Department of Justice, in addition to Customs, could perform law enforcement functions, including those relating to illicit drug trafficking, at the Nation's ports of entry and borders.[141] Finally, the plan required the Attorney General to assure the maximum cooperation

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(5) Coordination and cooperation with State and local law enforcement personnel on joint drug enforcement efforts; and

(6) Regulation of the legal manufacture of other controlled substances.

[141] Because of bureaucratic considerations, the 1973 reorganization plan, as originally designed, was never implemented. Section 2 of the plan transferred to the Secretary of the Treasury from the Department of Justice all functions involved in the inspection, at regular inspection points at ports of entry, of persons and the documents of persons; approximately 900 INS agents who were involved in the performance of such functions were to transferred to Treasury. During Congressional consideration of the reorganization plan, the American Federation of Government Employees and various members of Congress strongly opposed this provision. As as result of the opposition, the Nixon Administration agreed not to implement the INS transfer provisions of the plan.

between and among DEA, the FBI, and other units of the Justice Department to achieve coordination of all of his drug law enforcement functions.[142]

Once established, DEA played an "increasingly crucial role in the coordination of Federal drug law enforcement; and during the 1970s a number of interagency efforts were launched."[143] Among the coordination efforts undertaken by DEA was the development of mechanisms to provide timely and accurate narcotics intelligence to drug law enforcement personnel at the

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[142] In his reorganizaton plan transmittal message to Congress, President Nixon stated that one of the highly desirable effects of the implementation of the plan would be an increased role for the FBI in the war against drug abuse:

> [The Attorney General] would have the authority and responsibility for securing the fullest possible cooperation--particularly with respect to collection of drug intelligence--from all Federal Departments and agencies, which can contribute to the anti-drug work, including the Internal Revenue Service and the Federal Bureau of Investigation.
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> My proposals would make possible a more effective anti-drug role for the FBI, especially in dealing with the relationship between drug trafficking and organized crime. I intend to see that the resources of the FBI are fully committed to assist in supporting the new Drug Enforcement Administration.

Despite the stated intentions of the proponents of the 1973 reorganization plan concerning the anticipated increased role for the FBI, the staff of the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations reported, two years later, that the FBI still had "no significant drug enforcement role." 1976 PSI Interim Report, supra note 42, at 36.

[143] 1983 OCDE Report, supra note 2, at 13.

Federal, State and local levels. Steps taken by DEA in this area included the establishment of:

(1) An Office of Intelligence at DEA headquarters which, organizationally, was at the same level as its Office of Enforcement;

(2) Regional Intelligence Units (RIUs) in each of the DEA regions;

(3) The El Paso Intelligence Center (EPIC) in 1974 as a border intelligence unit, which soon grew into a "twenty-four-hour-a-day intelligence center, with worldwide capabilities to collect, process, and disseminate information concerning illicit drug trafficking as well as the smuggling of aliens and weapons;"[144] EPIC is staffed by personnel from DEA, INS, Customs, the Coast Guard, BATF, FAA, the U.S. Marshals Service, FBI and IRS;

(4) The Narcotics and Dangerous Drugs Information System (NADDIS) and the System to Retrieve Information from Drug Evidence (STRIDE) to provide access to numerous investigative records of DEA and other Federal, State and local drug enforcement records;

(5) In April of 1978, the National Narcotics Intelligence Consumers Committee (NNICC), chaired by the DEA Deputy Assistant Administrator for Intelligence and including representatives from the Departments of Defense, Treasury and State, and their component agencies in the field, including Customs, the Coast Guard, FBI, INS, IRS, and NIDA to coordinate the collection, analysis, dissemination and evaluation of drug-related intelligence, both foreign and domestic, and to publish annually a "National Intelligence Estimate on the Supply of Drugs to the U.S. Illicit Market from Foreign and Domestic Sources."

In addition to trying to improve the intelligence gathering and dissemination functions of Federal drug law enforcement, DEA attempted to improve the task force concept in drug law enforcement which it had inherited from ODALE. In 1974 DEA adopted the Central Tactical Units (CENTAC) program to focus enforcement resources on conspiracy investigations of high-level drug trafficking targets. Unfettered by normal DEA regional operations, centrally administered, specially funded, staffed by personnel from DEA, IRS, Customs, and State and local agencies, and charged with pursuing conspiracy cases under the Continuing Criminal Enterprise (CCE) and RICO statutes, the CENTAC program did produce relatively high arrest and conviction rates of high level traffickers, and accounted for 12 percent of DEA arrests from 1976 to 1979 while using less than three percent of DEA personnel.[145] Although criticizing the CENTAC Program for not exploiting the Federal forfeiture statutes to seize the assets of convicted traffickers, the General Accounting Office (GAO) nevertheless concluded that:

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[144] _Id._ at 13.

> Given the success of the Central Tactical units and the need for more multi-regional conspiracy investigations, the expansion of the [CENTAC] program is warranted.[146]

GAO recommended expansion of the CENTAC program despite an earlier conclusion that the CENTAC efforts had not "achieve[d] the overall objective--complete immobilization of the targeted trafficking organizations."[147] The 1980 GAO report also conflicted with:

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[145] 1983 OCDE Report, supra note 2, at 13.

[146] General Accounting Office, The Drug Enforcement Administration's CENTAC Program -- An Effective Approach to Investigating Major Traffickers That Needs to be Expanded 8 (March 27, 1980) (hereinafter cited as CENTAC Program Report).

> DEA officials who said the current size of the CENTAC program is optimum given existing enforcement resources, required commitments, and their preference for regionally controlled investigations . . . .[148]

Another effort at interagency operational cooperation during the decade of the 1970's was the creation of three FBI-DEA forces in Chicago, New York, and Los Angeles to "test the feasibility of joint operations."[149] These task forces were designed to combine the FBI's organized crime and conspiracy cases expertise with DEA's experience in narcotics investigations. This effort was probably doomed from the start because, although each agency was supposed to coordinate with the other, each used its own investigative techniques, personnel, and information sources and each maintained jurisdictional autonomy. After two years, the program was in effect disbanded, and evaluations by GAO and others attributed the failure to disagreements over investigative techniques and to restrictions on case selection.[150]

The creation of DEA by the 1973 reorganization plan and DEA's subsequent development of new supply reduction approaches were not the only steps undertaken and designed during the 1970s to respond to what many had come to view as the almost intractable national drug problem. For example, Congress passed the Narcotic Addict Treatment Act of 1974,[151] which amended the 1970 Controlled Substances Act to require annual registration by practitioners dispensing narcotic drugs, including methadone, for maintenance or detoxification purposes. This legislation, which imposed standards for the legal dispensing of drugs, was deemed necessary because of the increased diversion of methadone for illegal sale and use.[152]

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[147] Comptroller General's 1979 Report, *supra* note 1, at 89.

[148] CENTAC Program Report, *supra* note 146, at 8.

[149] 1983 OCDE Report, *supra* note 2, at 14.

[150] *Id.* at 14.

That year also saw the passage of the Alcohol and Drug Abuse Education Act Amendments of 1974, which extended the grant and contract authorities of the Drug Abuse Education Act of 1970 for three years and authorized the expenditure of $90 million over those three years.[153] The Act placed greater emphasis on the need for prevention and early intervention programs, recognizing the crucial role of family, peer group, school, church and other community institutions in influencing young people's behavior.

In enacting the 1974 Alcohol and Drug Abuse Education Act Amendments, Congress noted that most of the previously adopted

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[151] Pub. L. No. 92-281, 88 Stat. 124 (May 14, 1974).

[152] H.R. Rep. No. 884, 93d Cong., 2d Sess., reprinted in 1974 U.S. Code Cong. & Ad. News 3029, 3030. That illegal diversion had taken place was reflected in arrests involving methadone and statistics concerning deaths by overdose with methadone.

[153] Pub. L. No. 93-422, 88 Stat. 1154 (Sept. 21, 1974).

Federal programs to reduce demand had "inevitably been directed primarily toward the person who is already in serious trouble with alcohol and/or drugs," but that the focus of the Drug Abuse Education Act of 1970 had been different in that it was directed to those who had not yet experimented with drugs or to those who had just begun to do so.[154] In passing the 1974 amendments Congress applauded the focus on prevention, reaffirming the philosophy that had suffused the 1970 Education Act:

> [R]eal progress in the struggle against alcohol and drug abuse will require an intensified effort to reach that far more numerous group, those millions of young people who may be tempted to experiment with dangerous drugs or who may have already done so.[155]

Although committed to the continuation of Federal support for local drug education programs, Congress was nevertheless critical of those educational programs that were based upon information that was incomplete, erroneous, or designed to frighten, and those based on accurate information that had the tendency to arouse interest in drugs and to lead to experimentation.[156] Before passing the 1974 Amendments Congress received assurances from the Office of Education within the Department of HEW that it would make every effort to support only those programs which would "incorporate factual material about drugs into programs which focus on the causes of drug use and emphasize the development of appropriate attitudes and values," rather than merely inform and arouse interest.[157]

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[154] S. Rep. No. 953, 93d Cong., 2d Sess., reprinted in 1974 U.S. Code Cong. & Admin. News 5369, 5371.

[155] Id.

[156] Id. at 5372.

The Nixon Administration opposed passage of the bill that eventually became the Alcohol and Drug Abuse Education Act Amendments of 1974 because it believed that "alcohol and drug abuse education [should] be included among the special projects to be funded under other education legislation and that alcoholism and drug abuse formula grant funds to the states [should] be considered the major source of funds for local alcohol and drug abuse education programs."[158] Congress disagreed with the Administration's position concerning categorical legislation relating to prevention and early intervention educational programs, stating that:

> Failure to renew a clear legislative mandate to the Office of Education would destroy the identity of the program at both the Federal and the State level and would cast the alcohol and drug education programs in the role of supplicants to those agencies whose primary concern is not education and who are already besieged by the demands of treatment programs.
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> The ultimate result would be either the disappearance of community drug and alcohol education programs or a reversion to some of the futile

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[157] *Id.* at 5373. To insure that the programs supported did educate, Congress authorized the Commissioner of Education to use one percent of the funds appropriated for each of the three fiscal years for an independent analysis and evaluation of such programs.

[158] *Id.* at 5370.

and dangerous efforts of the past . . . .[159]

As noted earlier, the 1972 Drug Abuse Office Act provided that SAODAP would be abolished on June 30, 1975, with no assignment of its policymaking and coordinative functions to any other Federal agency. On March 19, 1976, however, legislation was approved that in effect continued SAODAP, but under the slightly different name of "Office of Drug Abuse Policy" (ODAP).[160] Congress created ODAP because:

> [T]here is current evidence that whatever improvement in the problem occurred in 1973 was temporary and that the present problem is at least as great as at the time the original act was passed.[161]

In approving the continuation of an executive level drug advisor,

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[159] Id. at 5371-5372.

[160] Pub. L. No. 94-237, 90 Stat. 241 (March 19, 1976).

[161] S. Rep. No. 218, 94th Cong., 2d Sess., reprinted in 1976 U.S. Code Cong. & Ad. News 375, 380. Congress also found that:

> [T]he country faces a drug abuse problem in 1975 which is more serious and more complicated in many respects than that which it faced in 1972. All available indicators suggests this, as did the testimony presented . . . in preparation for this bill. Programs are full to overflowing, with long waiting lists. Serum hepatitis is on the increase. Drug-related deaths are mounting. Admissions to hospital emergency rooms everywhere are escalating. Domestic seizures of heroin were greater in the last six months of 1974 than in the previous twelve months.

Id. at 380. Congress also concluded that because of a 1974 restructuring of the Department of Health, Education, and Welfare, whereby the Alcoholism, Drug Abuse and Mental Health Administration (ADAMHA) had been interposed between NIDA and the Secretary, NIDA was less able to perform the coordinative and policymaking functions required for the overall Federal drug abuse prevention efforts. Id. at 379.

Congress found that "drug abuse was not a crisis which could be rapidly solved but rather a continuing problem calling for a continued Federal responsibility." Congress also concluded that Federal expenditures for drug abuse prevention efforts had peaked in 1974 and then declined, despite continuing serious problems, due to, among other things, the anticipated end of SAODAP:[163]

> It would also appear that the existence of a high-level office in the executive branch is to some extent correlated with the fiscal emphasis provided to drug abuse prevention efforts.[164]

Congress was also somewhat concerned that "unless some active direction is taken at some high level it is probable that in the very near future funding for drug law enforcement will again overbalance funding for drug abuse prevention."[165]

In creating ODAP Congress required its Director to make recommendations to the President regarding the policies and priorities for, and objectives of, all Federal "drug abuse functions," a term which was defined to encompass both drug abuse prevention and drug traffic prevention functions, and to coordinate the performance of such functions by Federal

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[162] S. Rep. No. 104, 96th Cong., 1st stss., reprinted in 1979 U.S. Code Cong. & Admin. News 2736, 2738.

[163] S. Rep. No. 218, 94th Cong., 2d Sess., reprinted in 1976 U.S. Code Cong. & Admin. News at 380.

[164] Id. at 380.

[165] Id. at 381.

departments and agencies. This was a significant expansion of the authority of ODAP's predecessor, SAODAP.[166]

Despite the Ford Administration's opposition to the continuation of an executive-level office relating to drug abuse prevention,[167] President Ford did not veto the 1976 amendment creating ODAP. However, President Ford did not staff ODAP, even though a specific line-item authorization had been made for it. ODAP did not come into being until President Carter issued a memorandum initiating the Office on March 14, 1977. Less than two months after the Senate confirmation of the ODAP Director, President Carter submitted a reorganization plan restructuring the Executive Office of the President to Congress on July 15, 1977.[168]

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[166] The 1976 Amendment also confirmed the assumption by NIDA of programmatic responsibility for drug abuse prevention efforts. In addition, the Amendment directed the Secretary of HEW, in making special project grants or contracts, to accord high priority to applications involving primary prevention programs. Finally, the 1976 Amendment required the Director of NIDA to coordinate Federal drug abuse prevention functions with those of State and local governments and to provide a central clearinghouse for agencies or individuals seeking drug abuse information from the Federal government.

[167] In opposing the extension of SAODAP, Administration spokesmen expressed confidence that SAODAP's coordinating and policymaking functions could be performed by the Office of Management and Budget and pointed out that NIDA had already assumed SAODAP's progrmmatic functions. S. Rep. No. 218, 94th Cong., 2d Sess. 10, *reprinted in* 1976 U.S. Code Cong. & Ad. News at 385.

Administration opposition may be explained in part by the fact that in April of 1975, President Ford directed the Domestic Council to review the effectiveness of overall Federal drug abuse policy. On September 29, 1975, Vice President Nelson Rockefeller submitted a *White Paper on Drug Abuse* that had been prepared by the Domestic Council Drug Abuse Task Force to the President. In his letter of transmittal to the President, the Vice President stated:

> The Task Force believes that the optimism about "winning the war on drugs" expressed so eloquently and confidently only a few years ago was premature.

The 1977 reorganization plan altered the structure of the Executive Office of the President, which at the time consisted of the immediate White House Office, the Vice President's Office, OMB, and 14 other agencies, including ODAP and the Domestic Council. As proposed, the plan, among other things, abolished the Domestic Council and ODAP and redesignated the Domestic Council Staff as the Domestic Policy Staff. The functions of ODAP and its Director would be transferred to the President who could then delegate such functions.

Several members of Congress, recalling that it was the need for a high-level policy and coordinating office to oversee the activities of more than 20 Federal agencies with significant drug abuse responsibilities that had given birth to the SAODAP/ODAP program, expressed grave concern about the abolishment of ODAP. President Carter assured them that the ODAP's functions would be carried on within the Executive Office of the President and that the Domestic Policy Staff, with several of its staff members assigned exclusively to drug abuse issues, would handle ODAP's policymaking and coordinative functions.[169] With Congressional acquiescence, the 1977 Reorganization became effective on March 26, 1978,[170] at which time a core group of ODAP staff was transferred to the Domestic Policy Staff.[171]

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[168] Reorganization Plan No. 1 of 1977, 42 Fed. Reg. 56,101 (1977), reprinted in 1977 U.S. Code Cong. & Ad. News 4720-4721, as amended on September 15, 1977, Id. at 4722-4723.

Although Congress did not block the provisions of the 1977 reorganization plan, members of Congress nevertheless remained unsure whether drug abuse policy-making and coordinative functions could be or would be adequately performed by the Domestic Policy Staff. This uncertainty was reflected in the Drug Abuse Prevention and Treatment Amendments of 1978,[172] which extended the authorization for NIDA programs for only one year, instead of the previous multi-year reauthorizations, so that it could evaluate the system created by the 1977 reorganization plan after a relatively brief but adequate period of time.[173]

The Congressional evaluation of the operations of the drug abuse policy and coordinating system in the Executive Office of the President was embodied the next year in the Drug Abuse Prevention, Treatment and Rehabilitation Amendments of 1979.[174] During the consideration of this legislation, President Carter assigned the Associate Director for Drug Policy of the Domestic Policy Staff the responsibility for assisting the President in performing the functions of ODAP, which had been transferred to the President by the 1977 reorganization plan.[175] President Carter took this step because of Congressional concern that:

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[169] S. Rep. No. 104, 96th Cong., 1st Sess. 5, reprinted in 1979 U.S. Code Cong. & Ad. News 2736, 2740.

[170] Exec. Order No. 12,045, 43 Fed. Reg. 13,347 (1978), reprinted in 1978 U.S. Code Cong. & Ad. News 9684.

[171] S. Rep. No. 104, 96th Cong., 1st Sess. 5, reprinted in 1979 U.S. Code Cong. & Ad. News at 2740.

[172] Pub. L. No. 95-461, 92 Stat. 1268 (Oct. 14, 1978).

[173] H.R. Rep. No. 1187, 95th Cong., 2d sess. 10, reprinted in 1978 U.S. Code Cong. & Ad. News 2939, 2948.

> [t]he continued coordination of drug abuse policy, required by the 1972 Act and its subsequent amendments, became dependent upon the continued interest . . . of the President and other individuals within the Executive Branch, rather than being clearly structured by statute as had been the case prior to the implementation of the Reorganization Plan.[176]

Because of the steps taken by the Carter Administration including the revitalization of the Strategy Council,[177]

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[174] Pub. L. No. 96-181, 93 Stat. 1309 (Jan. 2, 1981). This legislation redesignated the 1972 Drug Abuse Office Act as the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

[175] Exec. Order No. 12,133, 44 Fed. Reg. 27 (1979), reprinted in 1979 U.S. Code Cong. & Ad. News 3298.

[176] S. Rep. No. 104, 96th Cong., 1st Sess. 6, reprinted in 1979 U.S. Code Cong. & Ad. News 2736, 2741.

[177] Id. at 6, reprinted in 1979 U.S. Code Cong. & Ad. News at 2741. With the assistance of the Drug Policy Office, the Strategy Council formulated and published the 1979 Federal Strategy.

Congress responded by legislating what the 1977 reorganization plan had done.[178]

In addition to giving its imprimatur to the 1977 reorganization plan, the 1979 legislation made authorizations for NIDA's state formula grants and special grant and contract programs for drug education and prevention through September 30, 1981. It did so because it found that the "growing extent of drug abuse indicates an urgent need for prevention and intervention programs designed to reach the general population."[179] In providing for a two-year reauthorization for NIDA programs and activities, Congress rejected the Carter Administration's proposal that state formula grants for drug abuse be consolidated with those for alcoholism and mental health because:

> There is considerable history to suggest that earmarked funding for categorical programs should remain separate at the State level as well as at the national level. Within the traditional health care delivery system, the drug and alcohol client has not fared well. To force these systems to compete again is to seriously jeopardize the major

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[178] Specifically, the Drug Abuse Prevention, Treatment, and Rehabilitation Amendments of 1979 amended the 1972 Act to transfer the functions of ODAP and its Director to the President and to direct the President to designate one individual to direct the activities required by Title II of the Act. In this, Congress was in part motivated by its concern that "the focus on national drug supply and demand functions not be disrupted by unnecessary reorganizations of existing structures and procedures." *Id.* at 14, *reprinted in* 1979 U.S. Code Cong. & Admin. News at 2749.

[179] Pub. L. No. 96-181, §2, 93 Stat. 1309.

> strides which have been made.... The Committee insists that a categorical emphasis on drug abuse must be maintained at all levels of government. A loss of direct program emphasis would severely harm the state focus on combatting drug abuse, and could seriously endanger the Nation's battle against drug abuse.[180]

The decade of the 1970's was an important one in the evolution of the Federal drug abuse effort. It began with a comprehensive restructuring of Federal laws relating to drugs and included a major reorganization of Federal drug law enforcement agencies in a effort to reduce interagency rivalries and to promote efficiency and leadership in the fight against drug trafficking. Equally important was the recognition that strategies to reduce demand must be an essential component of the overall drug abuse policy and that the nation's drug abuse problem could not be regarded as a crisis susceptible to quick resolution. In addition, new laws were passed to respond to particular aspects of the drug problem,[181] and new enforcement

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[180] S. Rep. No. 104, 96th Cong., 1st Sess. 20, *reprinted in* 1979 U.S. Code Cong. & Ad. News at 2754-2755.

[181] *See, e.g.*, the Psychotropic Substances Act of 1978, Public Law No. 95-633, 92 Stat. 3768 (Nov. 10, 1978). This legislation amended the 1970 Comprehensive Act to make it possible for the United States to ratify the Convention on Psychotropic Substances, which had been signed by U.S. Representatives on February 21, 1971, in Vienna and which was the first effort at multinational control of synthetic "psychotropic" or "mind-altering" drugs, such as hallucinogens, amphetamines, barbiturates, and tranquilizers. The Convention had first been submitted to the Senate for advice and consent on June 19, 1971, and it was in many ways similar to the Single Convention on Narcotic Drugs of 1961, which had been ratified in 1967, and to the Comprehensive Drug Abuse Prevention and Control Act of 1970. Ratification was deemed necessary for two reasons:

> First, [it] will persuade other countries to do likewise . . . . Second, ratification is necessary

approaches were tried in an effort to disrupt drug trafficking more effectively.

On a less positive note, disagreements over certain fundamental issues remained unresolved at the end of the 1970's. Among these were the role of the Federal Government in drug policy and the appropriate balance between strategies to reduce demand and supply. Finally, and perhaps most importantly, despite legislation, massive reorganizations, new enforcement

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> to strengthen the hand of the United States in convincing other countries to control narcotic producing plants.

H.R. Rep. No. 1193, 95th Cong., 2d Sess. 4, reprinted in 1978 U.S. Code Cong. & Ad. News 9496, 9499.

In addition to amending the 1970 Act to enable the United States to ratify the 1971 Convention, the Psychotropic Substances Act of 1978 also amended the Controlled Substances Act to increase the penalties for manufacturing, distributing, and dispensing phencyclidine, (PCP), to make it illegal to possesspiperidine, a chemical used to make PCP, with the intent to manufacture PCP unlawfully, and to require anyone distributing, selling or importing piperidine to make reports to the Attorney General. The piperidine reporting provisions were designed to be:

> implemented as a pilot program to study and determine whether the reporting of chemical precursors of a controlled substance can be effective in reducing the illicit manufacture, distribution and use of the controlled substance.

Joint Explanatory Statement of Titles II and III, 124 Congressional Record S. 17647 (Oct.7, 1978). Because the piperidine reporting system was a pilot program, the 1978 Act provided that it would be repealed on January 1, 1981. However, the perceived benefits of the reporting system, *i.e.*, decrease in the supply of piperidine in legitimate distribution channels, and decrease in the number of PCP laboratories seized (S.Rep. No. 916, 96th Cong., 2d Sess. 13-14, reprinted in 1980 U.S. Code Cong. & Ad. News 2858, 2870-2871), led Congress to extend the system. Pub. L. No. 96-359, §8(a), Stat. 1194.

techniques, and necessary attitudinal changes, the problems of drug abuse and trafficking continued at high levels at the end of the decade.

FEDERAL DRUG ABUSE POLICY: 1981 - PRESENT

Early in his administration President Ronald Reagan acknowledged that drug abuse was "one of the gravest problems facing us" as a Nation.[182] The Reagan Administration has taken many steps designed to improve the effectiveness of the U.S. overall drug abuse policy.

Reorganization/Coordination

On January 21, 1982, in a major policy shift, the FBI was given concurrent jurisdiction with DEA for drug law enforcement and investigation. In addition, the Administrator of DEA was required to report to the Director of the FBI who was given the responsibility for supervising generally drug law enforcement efforts and policies.[183]

In giving the FBI concurrent jurisdiction for enforcement of U.S. drug laws, the Attorney General followed the recommendation of a committee that he had established to study the need for increased coordination of DEA and the FBI in the drug field. This committee was headed by then Associate Attorney General Rudolph W. Giuliani. According to Giuliani, the Attorney General's committee recommended concurrent jurisdiction because:

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[182] Speech of March 6, 1981, quoted in White House Drug Abuse Policy Office, 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking at 3.

[183] *Id.* at 49.

> [W]e believe we can more effectively deal with the large-scale trafficking groups by coordinating DEA's street-level, undercover expertise with the FBI's ability to combat large criminal enterprises. The FBI's 20-year experience in combatting organized crime will also prove critical to drug enforcement.[184]

Although FBI expertise in organized crime and financial investigations would be available in drug enforcement work as a result of concurrent jurisdiction, DEA would continue to function as a "single-mission narcotics enforcement agency" that would "give the drug problem the kind of focus it needs."[185]

In another action relating to the coordination of Federal drug abuse efforts, President Reagan issued an executive order on

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[184] Drug Enforcement Policies: Hearings Before the Subcomm. on Crime of the House Comm. on the Judiciary, 97th Cong., 1st Sess. 32 (Dec. 10, 1981).

[185] *Id.* at 34. At about the same time that the FBI was given concurrent drug law enforcement jurisdiction, President Reagan created the Cabinet Council on Legal Policy and the Cabinet Council on Human Resources. The former, through its Committee on Drug Supply Reduction, was designed to provide Cabinet-level direction to the development and coordination of international and domestic efforts to reduce drug supply. The Council on Human Resources, through its Working Group on Drug Abuse Health Issues, was to perform the same functions with respect to the reduction of demand.

June 24, 1982,[186] directing the Office of Policy Development to assist the President in performing his duties under the Drug Abuse Prevention, Treatment, and Rehabilitation Act; designating the Director of the Drug Abuse Policy Office within the Office of Policy Development as primarily responsible for coordinating, overseeing, and policymaking for all Executive international and domestic drug abuse functions; and making the Director directly responsible for the activities of a drug policy staff within the Office of Policy Development.

Despite President Reagan's stated commitment to the performance of the functions imposed upon him by the Drug Abuse Prevention, Treatment and Rehabilitation Act, Congress became increasingly dissatisfied with a perceived lack of coordination of such functions. This dissatisfaction became embodied in an Omnibus Crime Bill (H.R. 3963) which included a provision to establish an Office of Director of National and International Drug Operations and Policy, which was described as follows:

> Similar in concept to SAODAP, the proposed agency would have been charged with the overall planning and coordination of Federal efforts to control the supply of dangerous drugs.[187]

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[186] Exec. Order No. 12,368, 47 Fed. Reg. 27,843, reprinted in 1982 U.S. Code Cong. & Ad. News B76-B77.

[187] S. Rep. No. 278, 98th Cong., 1st Sess. 8, reprinted in 1984 U.S. Code Cong. & Ad. News 3182, 3594. This provision apparently resulted from an amendment offered by Senators DeConcini and Pell during the Senate consideration of the House-initiated bill. 128 Cong. Rec. S 12821-S 12829 (daily ed.).

Unlike SAODAP, which had been directed by Congress to coordinate Federal drug abuse prevention efforts, and unlike ODAP, which was enjoined to oversee all Federal drug abuse programs, the proposed Office of Director of National and International Drug Operations and Policy was envisioned as a mechanism for coordinating and directing Federal law enforcement operations.

While the President was considering the merits of H.R. 3963, an Administration spokesman criticized that portion of the bill creating the Office of Director of National and International Drug Operations and Policy:

> If the czar . . . is to have the power to direct the drug enforcement operations of other Cabinet officers, the very nature of our Cabinet system of government would be drastically altered. If he is not to have such power, he could do little more than interfere with the existing mechanisms, which have been working well.

Two days after this statement appeared, President Reagan pocket-vetoed H.R. 3963 and issued a memorandum of disapproval explaining his action:

> The creation of another layer of bureaucracy within the Executive Branch would produce friction, disrupt effective law enforcement, and could threaten the integrity of criminal investigations and prosecutions . . . .
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> The seriousness of this threat is underscored

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[188] R. Giuliani, A Drug Czar Would Just Get in the Way, Wash. Post, Jan. 12, 1983, at A19, quoted in S. Rep. No. 278, 98th Cong. 1st Sess. 10, reprinted in 1984 U.S. Code Cong. & Ad. News at 3596.

> by the overwhelming opposition to this provision by the Federal law enforcement community as well as by such groups as the International Association of Chiefs of Police and the National Association of Attorney's General.
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> X X X
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> The war on crime and drugs does not need more bureaucracy in Washington. It does need more action in the field, and that is where my Administration will focus its efforts.[189]

Members of Congress were not easily dissuaded from their efforts to achieve a greater degree of coordination of the Federal drug abuse efforts. On February 7, 1984, the Senate passed a proposed National Narcotics Act of 1984 (S. 1787), which, among other things, would have established a cabinet-level Office of National and International Drug Operation and Policy. Under the bill the Director of the Office was authorized to: develop, review, implement, and enforce U.S. policy concerning illegal drugs; coordinate all U.S. efforts to halt drug trafficking into and within the United States; develop in concert with the Federal entities concerned with drug control budgetary priorities and allocations; and coordinate the collection and disseminate of narcotics intelligence.[190]

In recommending that S. 1787 be passed, the Senate Judiciar Committee acknowledged that the Reagan Administration had undertaken a number of "promising initiatives" in drug law enforcement. However, the Committee concluded that an Office of National and International Drug Operations and Policy was necessary because:

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[189] Memorandum Returning Without Approval a Bill Concerning Contr Services for Drug Dependent Federal Offenders, 1983 Pub. Papers 49-50 (Jan. 14, 1983).

[190] S. Rep. No 278, 98th Cong., 1st Sess. 1, *reprinted in* 1984 U. Code Cong. & Ad. News at 3587.

> [T]he Committee believes the Administration's anti-drug effort falls short in one crucial respect: the lack of central direction.
>
> At least 15 Federal agencies play a role in the regulation of commerce in dangerous drugs or in the enforcement of other restrictions . . . . These agencies are located in six different departments. Under such circumstances, it is inevitable that divergencies as to priorities will arise and that there will be conflicting interpretations of national policy. Indeed, national policy in such an area as drug law enforcement must be continually reevaluated and reformulated; a one-time annual review and the publication of a broadly-worded strategy does not suffice.[191]

The Committee also described in some detail the role it envisioned for the proposed Office:

> SOADAP was the same kind of "overlord" agency as the one contemplated by S. 1787. However, it was flawed from the beginning in that its effective jurisdiction was limited to activities aimed at the control of drug demand; it was not given authority of any substance in the law enforcement field. X X X
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> The Committee bill draws from the SAODAP concept, but focuses on the aspects of drug control that were excluded from the former agency's purview, *i.e.*, the government's efforts to control the supply of abused drugs. It is in the area of supply control, be it in foreign or domestic programs, that the Committee perceives the greatest current need for central direction.[192]

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[191] *Id.* at 9, *reprinted in* 1984 U.S. Code Cong. & Ad. News at 3595.

[192] *Id.* at 10, *reprinted in* 1984 U.S. Code Cong. & Ad. News at 3596.

In recommending the establishment of an office to which the Reagan Administration appeared to be implacably opposed, the Senate Judiciary Committee took pains to observe that the Director of the Drug Abuse Policy Office was not capable of performing the necessary coordinative functions concerning Federal drug law enforcement efforts:

> [U]nder questioning by several Congressmen [of the House Subcommittee on Crime at a February 17, 1983, hearing on the coordination of drug enforcement efforts] it became clear that the director does not have the authority or stature to oversee the implementation of the Federal strategy.[193]

Anxious to reassure the Administration about the proposed cabinet-level Office, the Committee made it clear that, in implementing the legislation, the President would have a great deal of flexibility; for example, the Office would not have to be established in the Executive Office of the President, and the Attorney General could be appointed the Director of the central drug agency. However, the Committee was insistent that the Director have something like a cabinet-level status because such status was deemed "necessary if the office is to have the influence needed to impose a truce on interagency feuding, to insure maximum participation, and to allocate budgetary resources for top efficiency and economy."[194]

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[193] Id. at 16, reprinted in 1984 U.S. Code Cong. & Ad. News at 3600.

Despite the Administration's opposition, the Senate passed S. 1787. However, Congressional conferees compromised and substituted a National Drug Enforcement Policy Board for the Office of National and International Drug Operations and Policy as the means for achieving greater coordination of Federal drug law enforcement efforts.[195] Both the House and Senate agreed to the Conference Report, and Public Law No. 98-473 was thereafter approved on October 12, 1984.[196] Title II of this law was entitled the Comprehensive Crime Control Act of 1984, and Chapter XIII of that title was designated the National Narcotics Act of 1984.[197]

Congress established the National Drug Enforcement Policy Board (Policy Board) because it found that drug trafficking was estimated to be an $80 billion a year industry; only 5 to 15 percent of the drugs imported into the country were interdicted;

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[194] Id. at 17, reprinted in 1984 U.S. Code Cong. & Ad. News at 3601. The Committee analogized the position of the proposed Director to that of the Director of Central Intelligence: Both establish policies and priorities, approve budget submissions, and prepare a government-wide program; however, neither has command authority with respect to fully autonomous agencies. Id. at 19, reprinted in 1984 U.S. Code Cong. & Ad. News at 3602-3603.

[195] H.R. Conference Rep. No. 1159, 98th Cong., 2d Sess. 417, reprinted in 1984 U.S. Code Cong. & Ad. News 3710, 3713-3714.

[196] 98 Stat. 1837.

[197] Pub. L. No. 98-473, § 1301, 98 Stat. 2168.

and controlling the supply of drugs was thought to be a key to reducing the drug-related crime epidemic.[198] The Policy Board, chaired by the Attorney General, was and is charged with facilitating coordination of U.S. operations and policy concerning illegal law enforcement. As Chairman of the Policy Board, the Attorney General was given many duties, including advising the Policy Board concerning drug law enforcement and acting as primary advisor to the President and Congress on Board-developed programs.[199] The Act, however, declares that nothing therein authorizes the Board or its Chairman to interfere with routine law enforcement or intelligence decisions of any agency. Finally, the National Narcotics Act of 1984 amended the Drug Abuse Prevention, Treatment and Rehabilitation Act to declare that one of the duties of the White House Office of Drug Abuse Policy Board was to insure coordination between the Policy Board and health issues associated with drug abuse.

The creation of the Policy Board in January 1985 represents only the latest compromise between the President and Congress in the ongoing search for more effective coordination of all facets of the Federal drug abuse effort. It remains to be seen whether an entity like the Policy Board can effectively oversee, police, and coordinate all Federal law enforcement efforts[200] and whether some other mechanism is needed to impose coordination of Federal demand reduction and supply reduction strategies.

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[198] In addition to the Attorney General and discretionary presidential appointments, the membership of the Policy Board, includes the Secretaries of State, Treasury, Defense, Transportation, Health and Human Services, the Director of OMB, and the Director of Central Intelligence.

[199] The Chairman of the Policy Board is also required to submit to Congress, biannually, a report reflecting U.S. policy concerning drug law enforcement, proposed plans for implementation of that policy, and accomplishment of U.S. policy and plans.

Legislative Responses to the Drug Problem

In addition to the Comprehensive Crime Control Act of 1984, other important legislative initiatives have been adopted in recent years. For example, the Department of Defense Authorization Act of 1982 contained a provision, "Military Cooperation With Civilian Law Enforcement Officials,"[201] which was intended to codify the practices of cooperation that had developed between military and civilian law enforcement authorities.[202] The Act was also designed to improve the level of cooperation by delineating precisely that assistance which military commanders could provide and by permitting military personnel to operate military equipment that had been lent to civilian drug enforcement agencies.[203] This legislation was deemed necessary for the following reasons:

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[200] In commentary on the Comprehensive Crime Control Act of 1984, the Department of Justice made the following observation concerning the Policy Board:

> The mandate to the Board is thus quite broad and allows a range of possible roles-- from essentially passive research and analysis to active implementation of drug policies.

U.S. Department of Justice, Handbook on the Comprehensive Crime Control Act of 1984 and Other Criminal Statutes Enacted by the 98th Congress 181 (December, 1984)(hereinafter cited as Comprehensive Crime Control Handbook).

[201] Pub. L. No. 97-86, § 905, 95 Stat. 1114-1116 (Dec. 1, 1981).

[202] H.R. Rep. No. 71, Part II, 97th Cong., 1st Sess. 7, reprinted in 1981 U.S Code Cong. & Ad. News 1781, 1790.

> The rising tide of drugs being smuggled into the United States by land, sea, and air presents a grave threat to all Americans.
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> X X X
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> Only through the dedicated work of all of Federal, State, and local law enforcement agencies can we begin to stem this tide. In fighting this battle, it is important to maximize the degree of cooperation between the military and civilian law enforcement. At the same time, we must recognize the need to maintain the traditional balance of authority between civilians and the military.[204]

The most important and innovative part of the legislation was Section 374, which permits the Secretary of Defense to assign Department personnel to operate and maintain military equipment that had been made available to an agency with jurisdiction to enforce the Controlled Substances Act.[205] This relatively simple change increased geometrically the potential interdiction capability of Federal drug law enforcement agencies.

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[203] Id. at 3, reprinted in 1981 U.S. Code Cong. & Ad. News at 1785. Some uncertainty surrounded the issue of what assistance the military could provide because the Posse Comitatus Act (18 U.S.C. §1385) makes it a felony for anyone willfully to use any part of the Army or Air Force to execute the civil laws, except as expressly authorized by the Constitution or Act of Congress. Although not covered by the Posse Comitatus Act, the use of the Navy and Marine Corps has been similarly prescribed by Navy Department regulations. Id. at 4, reprinted in 1981 U.S. Code Cong. & Ad. News at 1787.

[204] Id. at 3, reprinted in 1981 U.S. Code Cong. & Ad. News at 1785.

The year 1984 was a prolific one for legislation dealing with discrete areas in drug law enforcement. The Controlled Substance Registrant Protection Act of 1984 made it illegal, among other things, to steal any quantity of a controlled substance from a registrant.[206] Congress also directed the Attorney General, notwithstanding the scheduling provisions of the Controlled Substances Act, to transfer methaqualone, commonly known by the brand name Quaalude, from Schedule II to Schedule I, with the effect of making the prescription of methaqualone unlawful because it no longer had an approved medical use.[207] While remaining committed to the proposition that scheduling of controlled substances ordinarily should be handled in accordance with the administrative procedures mandated by the Controlled Substances Act, Congress took this legislative action after determining that circumstances required it to do so and that the adverse effects of the diversion of methaqualone outweighed its therapeutic usefulness.[208]

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[205] The 1981 Amendment directed the Secretary to issue regulations to insure that the provision of permissible assistance under the chapter did not involve direct participation by a member of the military in an interdiction of a vessel or aircraft, a search and seizure, arrest, or other similar conduct, unless otherwise authorized by law. The Amendment also authorized the Secretary of Defense to condition the provision of assistance on reimbursement.

[206] Pub. L. No. 98-305, 98 Stat. 221 (May 31, 1984). In order to limit Federal investigations and prosecutions to cases which exceed the ability, resources, or jurisdiction of the States, Congress included three jurisdictional limitations in defining the new Federal robbery and burglary offenses. The legislation was deemed necessary because

> [t]he effective regulation of the commerce in controlled substances has resulted in very high prices for drugs on the black market. As a consequence, theft of controlled substances from registrants has become a common yet serious problem. X X X The frequency of these crimes has terrorized the community of dispensing pharmacists. Some pharmacists have ceased to carry drugs that are highly desired on the black market, although this interferes with their patients' ability to obtain necessary medicine. This has a serious potential to impede the delivery of health care . . . around the nation.

H.R. Rep. No. 644, 98th Cong., 2d Sess. 2, *reprinted in* 1984 U.S. Code Cong. & Ad. News 521, 522.

Congress also passed the Aviation Drug-Trafficking Control Act, which amended the Federal Aviation Act of 1958, to, among other things, require the Administrator of the FAA to revoke airman certificates and aircraft registrations of those convicted of violating any Federal or State law relating to controlled substances, except where the violations involved possession offenses.[209] The Act also made it illegal for any person to serve as an airman without an airman's certificate in connection with a transportation that constitutes a Federal or State drug felony offense.[210]

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[207] Pub. L. No. 98-329, 98 Stat. 280 (June 29, 1984).

[208] H.R. Rep. No. 534, 98th Cong., 2d Sess. 4, *reprinted in* 1984 U.S. Code Cong. & Ad. News 540, 543. Congress took the extraordinary step of rescheduling methaqualone into Schedule I because DEA was unable to do so because methaqualone had been approved by the FDA for medical use and because it concluded that:

> [M]ethaqualone's limited therapuetic value, the adverse social consequences caused by its availability as a legal drug, and the growing movement among many state legislatures for statewide bans justifies Congressional action to place this drug under Schedule I controls.

Id. at 5, *reprinted in* 1984 U.S. Code Cong. & Ad. News at 544.

Although the Controlled Substance Registrant Protection Act of 1984, the Aviation Drug-Trafficking Control Act, and the Congressional rescheduling of methaqualone were necessary laws, by far the most important drug law enforcement measures passed in 1984 were contained in several provisions of the Comprehensive Crime Control Act of 1984.[211] The Act included:

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[209] Pub. L. No. 98-499, 98 Stat. 2312 (Oct. 19, 1984).

[210] The Aviation Drug-Trafficking Control Act was designed to "expand the powers of the [FAA] to combat aerial trafficking in drugs." S. Rep. No. 228, 98th Cong., 2d Sess. 1, reprinted in 1984 U.S. Code Cong. & Ad. News. 3916. The legislation was deemed necessary because:

> To some degree, law enforcement officers have been hampered in these efforts [to control the aerial drug trade] by an inability to prevent the same pilots and the same aircraft from repeated participation in aerial drug trafficking. Often times, prosecutors do not feel that it is worthwhile to expend limited resources in pursuing a conviction of the pilot. In the absence of such a conviction the FAA currently feels that they have insufficient statutory authority to revoke the pilot's license, or airman certificate. Similarly, unless a drug conviction is secured against the aircraft owner, the FAA is apparently powerless to revoke the aircraft registration.

Id. at 2, reprinted in 1984 U.S. Code Cong. & Ad. News. at 3917.

[211] Pub. L. No. 98-473, Title II, §§ 201-2304, 98 Stat. 1976-2194.

(i) Bail Reform Act of 1984:[212] This Act comprises many sections, but the most important and most controversial was that codified in 18 U.S.C. § 3142. Section 3142 provides that when a person charged with an offense appears before a judicial officer, the judicial officer must order that, pending trial, the accused be released on personal recognizance or upon execution of an unsecured appearance bond; released upon certain listed conditions; temporarily detained to permit exclusion or deportation if not a U.S. citizen or lawful permanent resident; temporarily detained to permit revocation of a prior conditional release; or detained. The preventive detention provision states that the judicial officer must hold a hearing in any case involving a narcotics offense for which imprisonment for ten or more years is prescribed to determine whether any conditions will assure the accused's appearance and the safety of any other person and of the community. In any such hearing the accused must prove that there are conditions that will assure his appearance or the community's safety, if the judicial officer finds that there is probable cause to believe that the person committed the offense.

(ii) Comprehensive Forfeiture Act of 1984:[213] This legislation made extensive revisions to Federal civil and criminal forfeiture laws and procedures, which had targeted the assets of racketeering and drug trafficking organizations:

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[212] Pub. L. No. 98-473, Ch.I, §§ 201-210, 98 Stat. 1976-1987.

[213] Pub. L. No. 98-473, Ch. III, §§302-323, 98 Stat. 2040-2057.

> Today few in the Congress or the law enforcement community fail to recognize that the traditional criminal sanctions of fine and imprisonment are inadequate to deter or punish the enormously profitable trade in dangerous drugs . . . . Clearly, if law enforcement efforts to combat racketeering and drug trafficking are to be successful, they must include an attack on the economic aspects of these crimes. Forfeiture is the mechanism through which such an attack may be made.[214]

This 1984 legislation was designed to eliminate limitations and ambiguities that had "significantly impeded the full realization of forfeiture's potential as a powerful law enforcement weapon."[215]

With respect to the Racketeer Influenced and Corrupt Organizations Act, the 1984 Comprehensive Forfeiture Act did several things, including confirming the Supreme Court's decision in Russello v. United States, 464 U.S. 16(1983) that a defendant's ill-gotten profits from racketeering were forfeitable; defining the property subject to forfeiture to include real property; making the relation back doctrine, *i.e.*, U.S. interest in forfeitable property arises at the time of the commission of the act that gives rise to the forfeiture, applicable in criminal forfeiture proceedings; and expanding post-indictment prior restraining order authority to preserve the availability of forfeiture assets by making an indictment sufficient to establish conclusively probable cause that the property will be forfeited.

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[214] S. Rep. No. 225, 98th Cong., 1st Sess. 191, reprinted in 1984 U.S. Code Cong. & Ad. News. 3182, 3374.

[215] *Id.*

The Comprehensive Forfeiture Act also amended the 1970 Comprehensive Act. With respect to criminal forfeiture, the 1984 Act added a new provision to the 1970 act that is applicable to all felony drug offenses, including the Continuing Criminal Enterprise offense. In virtually all respects, the drug criminal forfeiture provisions are now identical to those of the amended RICO statute. The new drug criminal forfeiture provision also creates a rebuttable presumption that any property of a person convicted of a drug felony is subject to forfeiture if the government establishes by a preponderance of the evidence that the defendant acquired the property during the period of violation, or within a reasonably short period thereafter, and there was no likely source for the property other than the violation.[216]

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[216] The 1984 legislaton also made it illegal, punishable by a $50,000 fine and ten years in prison, for any person to invest illicit drug profits in any business engaged in or affecting interstate or foreign commerce.

With respect to the civil forfeiture provisions of the 1970 Drug Act, the 1984 legislation made several amendments, including the addition of real property to the types of property that can be civilly forfeitable. The Act also codified the judicially-recognized relation back doctrine and provided that the filing of criminal charges, which are related to a pending civil forfeiture proceeding, will, upon a motion by the government and for good cause shown, stay the civil proceedings.

(iii) Controlled Substances Penalties Amendments Act of 1984:[217] This legislation generally enhanced the penalties for violations of the Controlled Substances Act. Specifically, it provided a 20-year prison term and a $250,000 fine for violations involving specified large amounts of Schedule I and II narcotic drugs, PCP and LSD;[218] raised the fine for violations involving all Schedule I or II substances[219] and enhanced the fines for violations involving Schedule III, IV, and V substances.[220] With respect to all doubling provisions for recidivists in the Controlled Substances Act, the 1984 legislation removed an ambiguity in the existing law by providing that a State drug felony conviction would trigger the provisions; it went further by providing that a Foreign drug felony conviction would have the same effect. Finally, the 1984 legislation provided that anyone who distributed controlled substances on or within 1,000 feet of school property could be subjected to a prison term or fine or both up to twice what is otherwise provided.[221]

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[217] Pub. L. No. 98-473, ch. V, part A, §§501-505, 98 Stat. 2068-2070.

[218] Pub. L. No. 98-473, §502, 98 Stat. 2068. The rationale for this amendment is set forth in the following selection from a committee report:

> [T]he severity of current drug penalties is determined exclusively by the nature of the controlled substance involved. While it is appropriate that the relative dangerousness of a particular drug should have bearing on the penalty for its importation or distribution, another important factor is the amount of the drug involved. Without the inclusion of this factor, penalties for trafficking in especially large quantities of extremely dangerous drugs are often inadequate.

S. Rep. No. 225, 98th Cong., 1st Sess. at 255, *reprinted in* 1984 U.S. Code Cong. & Ad. News at 3437.

[219] In increasing these maximum fines, Congress eliminated the statutory distinction based upon the narcotic/non-narcotic nature of the substance involved for the following reasons:

> Offenses involving Schedule I and II narcotic drugs . . . are punishable by a maximum of 15 years' imprisonment and a $25,000 fine. But in the case of all other Schedule I or Schedule II substances, the maximum penalty is only five years' imprisonment and a $25,000 fine.... This penalty structure is at odds with the fact that non-narcotic Schedule I and II controlled substances include such extremely dangerous drugs as PCP, LSD, methamphetamines, and methaqualone, and that Federal prosecutions involving these drugs typically involve huge amounts of illicit income and sophisticated organizations.

Id. at 256, *reprinted in* 1984 U.S. Code Cong. & Ad. News at 3438.

[220] Congress increased the level of fines for all violations becaus

> Drug trafficking is enormously profitable. Yet current fine levels are, in relation to the illicit profits generated, woefully inadequate. It is not uncommon for a major drug transaction to produce profits in the hundreds of thousands of dollars.... Part A of Title V provides more realistic fine levels that can serve as appropriate punishments for, and deterrents to, these tremendously lucrative crimes.

Id. at 255-256, *reprinted in* 1984 U.S. Code Cong., & Ad. News. at 3437-3438.

[221] The Controlled Substances Penalties Amendment Act of 1984 also amended the penalty provisions of the Controlled Substances Import and Export Act to make them consistent with and parallel to those set forth in 21 U.S.C. §841(b). Pub. L. No. 98-473, §§504 and 505, 98 Stat. 2070.

(iv) Dangerous Drug Diversion Control Act of 1984.[222] This legislation "represent[ed] the first major updating of the regulatory provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act since their enactment in 1970."[223] In doing so, the 1984 amendments focused principally on diversion of drugs of legitimate origin into the illicit market and the manufacture and abuse of new drugs, such as controlled substance analogs. With respect to the problem of diversion, which Congress had attempted to address in the 1970 Comprehensive Act by creating a closed system, the legislative history states:

> Diversion of legally produced drugs into illicit channels is a major part of the drug abuse problem in the United States. It is estimated that between 60 and 70 percent of all drug-related deaths and injuries involve drugs that were originally part of the legitimate drug production and distribution chain. Also, diversion of legally produced drugs often evidences the same sort of large-scale trafficking more commonly associated with the trade in wholly illicit drugs.
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>
> Unfortunately, experience under the [CSA] over the past decade has demonstrated that the strong regulatory authority to maintain a "closed" distribution chain does not exist at the practitioner level. Yet, it is estimated that 80 to 90 percent of all current diversion occurs at this level.[224]

In response to this diversion problem, Congress amended the

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[222] Pub. L. No. 98-473, ch. V. part B, §§506-525, 98 Stat. 2070-2077.

[223] Comprehensive Crime Control Act Handbook, supra note 200 at 71.

[224] S. Rep. No. 225, 98th Cong., 2d sess. 260-262, reprinted in 1984 U.S. Code Cong. & Ad. News at 3442-3444.

Controlled Substances Act to, among other things, permit the Attorney General to deny registration to practitioners if such registration would be inconsistent with the public interest, authorize the Attorney General to suspend or revoke a registration upon the recommendation of a competent state authority or if the public interest requires it; and authorize the Attorney General to make grants to State and local governments in connection with those governments' anti-diversion programs.

With respect to the problem of the manufacture and abuse of new drugs, Congress found that

> [T]he procedural requirements for controlling a drug under 21 U.S.C. 811 have proven sufficiently time consuming that they preclude a swift response when an as yet uncontrolled drug rapidly enters the illicit market and creates a significant health problem.[225]

As a result of the Dangerous Drug Diversion Control Act of 1984, Congress gave the Attorney General emergency scheduling authority.

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[225] Id. at 262, reprinted in 1984 U.S. Code Cong. & Ad. News at 344. Congress further observed:

> Historically, even when given a high priority, such as in the case of the rescheduling of PCP and the scheduling of its analogs, a scheduling action under current law takes at least six months, and often as long as a year. During the interim between identification of a drug that presents a major abuse problem and the eventual scheduling of the substances, enforcement actions against traffickers are severely limited and a serious health problem may arise.

Id. at 264, reprinted in 1984 U.S. Code Cong. & Ad. News at 3446.

Under that authority, the Attorney General is permitted to schedule a drug in Schedule I on a temporary basis, for up to one year, if he determines that such action is "necessary to avoid an imminent hazard to the public safety." In making this determination, the Attorney General need only consider the history and current pattern of abuse, the scope, duration, and significance of abuse, and the nature of the risk, if any, to the public health. The temporary scheduling may be extended for up to six months while a rulemaking proceeding is conducted for the purpose of permanently scheduling the drug. Such a temporary scheduling order is not subject to judicial review.[226]

(v) Currency and Foreign Transactions Reporting Act Amendments:[227] "Without the means to launder money, thereby making cash generated by a criminal enterprise appear to come from a legitimate source, organized crime could not flourish as it now does."[228] The 1984 amendments of the Currency and Foreign Transactions Reporting Act were designed to "fine tune the [then] current currency reporting law."[229] One of the changes adopted increased the civil penalty for violating the records and reporting requirements of the Act from $1,000 to $10,000 for each violation and the criminal penalty from $1,000 and 1 year in prison to $250,000 and 5 years imprisonment. These changes were deemed necessary because:

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[226] Since October 12, 1984, 12 substances have been temporarily scheduled.

[227] Pub. L. No. 98-473, ch. IX, §901, 98 Stat. 2135-2136.

[228] President's Commission on Organized Crime, The Cash Connection: Organized Crime, Financial Institutions, and Money Laundering 3 (October 1984).

[229] S. Rep. No. 225, 98th Cong., 1st Sess. 302, reprinted in 1984 U.S. Code Cong. & Ad. News. at 3481.

> [I]t is important to recognize that [the requirements] are primarily directed at persons who make a lucrative career in the illicit drug trade and organized crime. As such, the penalties are far too low to deter and punish such activity. Indeed, the modest penalties now applicable may simply be written off as a cost of doing business.[230]

The Comprehensive Crime Control Act of 1984 was intended to, and did in fact, provide Federal law enforcement agents with better tools for combatting drug traffickers. However, it is still too early to evaluate how these tools have been used.

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[230] *Id.*, *reprinted in* 1984 U.S. Code Cong. & Ad. News at 3484. In addition to increasing the civil and criminal penalties for violations, the 1984 amendments changed the law to proscribe an attempt to circumvent the recordkeeping and reporting requirements, to increase the reporting requirement threshold from $5,000 to $10,000, to allow custom officers to conduct warrantless searches based upon reasonable cause, and to authorize the Secretary of the Treasury to reward individuals who provide information leading to the recovery, by criminal fine, civil penalty or forfeiture, of more than $50,000. Finally the 1984 currency law amendment amended 18 U.S.C. § 1961(1) to make any act indictable under the Currency and Foreign Transactions Reporting Act a predicate offense for a RICO prosecution; this change was adopted because of the

> recognition that major currency transaction violations are inherently a part of all major drug racketeering schemes and organized crime money laundering activities.

Id. at 303, *reprinted in* 1984 U.S. Code Cong. & Ad. News at 3483.

Important legislation in the field of drug abuse since 1981 has not been restricted only to matters relating to improving drug law enforcement. As noted previously, Congress in 1979 rejected President Carter's proposal that NIDA's State formula grants for drug abuse programs be consolidated with those for alcoholism and mental health. Instead it reauthorized the drug formula grants through September 30, 1981. In passing the Omnibus Budget Reconciliation Act of 1981, Congress reversed itself and fundamentally changed the role that the Federal Government plays in overseeing and funding of drug abuse prevention, treatment and rehabilitation programs by creating an Alcohol and Drug Abuse and Mental Health Service Block Grant (ADMS Block Grant). The new program was designed to distribute the Federal money that had previously been provided to the States through formula and project grants and contracts.[231]

One of the principal motivations for adopting the block grant approach was the belief that the States were in the best position to determine the most efficacious use of Federal funds:

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[231] Pub. L. No. 97-35, § 901, 95 Stat. 543-552 (Aug. 13, 1981). The Omnibus Budget Reconciliation Act also limited the appropriations for carrying out the Alcohol and Drug Abuse Education Act during fiscal year 1982 to $3 million (§507, 95 Stat. 443), repealed that Act effective October 1, 1982 (§587, 95 Stat. 480), repealed 21 U.S.C. § 1176 ("Formula grants") (§ 969(a), 95 Stat. 595), amended 21 U.S.C. § 1177 ("Special project grants and contracts") in certain respects (§970, 95 Stat. 596), and authorized $15 million for the fiscal year ending September 30, 1982, for carrying out the purposes of 21 U.S.C. § 1177 (§970(c), 95 Stat. 596.

> The ADMS Block . . . [was] established in 1981 to provide State and local governments greater flexibility and decision-making authority in focusing Federal, State, and local resources on needs and priorities they know best and in ways they believe are best suited to local conditions. Block grants were also intended to eliminate duplication and overlapping of services and allow States to better integrate and coordinate services funded by several levels of government.[232]

In addition to establishing the ADMS Block Grant, the Omnibus Budget Reconciliation Act specified how the States were to spend their allotment.[233] Although requiring the States to file reports with information permitting the Secretary of Health and Human Services to determine whether the Federal funds provided were expended in conformity with the objectives of the block grant, the Act also directed the Secretary not to impose burdensome reporting requirements.[234] The reporting requirements concerning the block grant imposed by the Secretar were much less extensive than those existing under the categorical programs that existed prior to the adoption of the block grant approach.[235]

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[232] S. Rep. No. 381, 98th Cong., 2d Sess. 4, reprinted in 1984 U. Code Cong. & Ad. News 3994, 3997.

[233] Eighty-five percent of the allotment in fiscal year 1984 had be expended on mental health and substance abuse services in th same proportion that Federal funds had been awarded for such services in the State in selected base years; of the funds received for alcohol and drug abuse services, at least 35 perce had to be expended on drug abuse services, and of the funds available for alcohol and drug abuse services; at least 20 percent had to be used for prevention and early intervention programs.

[234] Pub. L. No. 97-35, § 901, 95 Stat. 594. Similarly, although Act authorized the Secretary to conduct investigations of the u of funds obtained under the Block Grant to evaluate a State's compliance with the requirements thereunder, it prohibited the Secretary from requesting information not readily available to the State. Id., 95 Stat. 551.

The impact of the Omnibus Budget Reconciliation Act has been estimated: Since the establishment of the ADMS Block Grant, the amount of Federal money going to State drug abuse prevention and treatment programs has declined by approximately 40 percent.[236] It is not possible, however, to determine what the impact of this reduction has been because a portion, perhaps significant, of the reduction represents savings due to the elimination of overhead administrative costs.

Law Enforcement and Executive Responses to the Drug Problem

Recognizing that drug abuse and drug trafficking are serious national problems, which also pose a threat to national security, the Reagan Administration has taken steps since 1981 that have been designed to improve Federal law enforcement efforts against drug traffickers.

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[235] S. Rep. No. 381, 98th Cong., 2d Session. 12, *reprinted in* 1984 U.S. Code Cong. & Ad. News at 4006. However, because "[a]ll organizations seem to agree that States have become increasingly concerned about the lack of data available on a national basis for allowing States to compare and understand treatment and prevention networks and clients on a State-by-State basis" (*Id.*), Congress directed the Secretary to develop model criteria and forms to enable, but not to require, the States to share uniform data and information in the Alcohol Abuse, Drug Abuse, and Mental Health Amendments of 1984. Pub. L. No. 98-509, § 104(d), 98 Stat. 2358 (Oct. 19, 1984). The 1984 Amendments also made authorizations for the block grant of $515 million, $545 million and $576 million, for fiscal years 1985, 1986, and 1987, respectively, and they increased from 15 to 25 percent the amount of a State's allotment that could be allocated, at the State's discretion, between alcohol and drug abuse and mental health activities.

[236] House Select Comm. on Narcotic Abuse and Control, *Annual Report for the Year 1984*, H.R. Rep. No. 1199, 98th Cong., 2d Sess. 45-46 (Jan. 3, 1985).

Narcotics intelligence is essential to any drug law enforcement program. In that regard, on December 4, 1981, President Reagan issued an executive order, entitled "United States Intelligence Activities,"[237] which was intended to "control and provide direction and guidance to the Intelligence Community." Among the executive order's provisions relating to drugs, one authorizes agencies within the U.S. Intelligence Community to participate in law enforcement activities to investigate or prevent international narcotics activities and to render assistance and cooperation to law enforcement authorities not otherwise precluded by law.[238] In addition, agencies within the Intelligence Community are authorized to collect, retain, or disseminate information concerning U.S. persons obtained during the course of a lawful international narcotics investigation or incidentally obtained information indicating involvement in activities that may violate federal, state, local or foreign laws.[239] Finally, the Executive Order directs that all departments and agencies involved in the U.S. intelligence effort shall cooperate to provide the President and the National Security Council with information on which to base decisions concerning the conduct and development of foreign, defense, and economic policy and the protection of U.S. national interests.[240]

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[237] Exec. Order No. 12333, 46 Fed. Reg. 59941, reprinted in 1984 U.S. Code Cong. & Ad. News B 102-B 116.

[238] *Id.*, section 2.6, 46 Fed. Reg. 59951, reprinted in 1981 U.S. Code Cong. & Ad. News at B 113.

[239] *Id.*, Section 2.3, 46 Fed. Reg. 59950, reprinted in 1981 U.S. Code Cong. & Ad. News at B 111-B 112.

Whether the U.S. Intelligence Community has played or will play the important role in the Nation's anti-drug effort envisioned for it by Executive Order 12333 depends upon the commitment of its constituent departments and agencies to eliminating this threat to national security. The Executive Order was an important event because it represented recognition at the highest level of the Executive Branch that, without accurate and adequate strategic, operational, and tactical

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[240] *Id.*, Section 1.1, 46 Fed. Reg. 59942, *reprinted in* 1981 U.S. Code Cong. & Admin. News at B 103. In this regard, the Executive Order directs agencies within the U.S. Intelligence Community to collect information regarding, and to conduct protective activities against, international narcotics activity, which is described as a species of hostile activities directed against the United States. Section 1.4(c). Similarly, the intelligence functions of the CIA are defined to include the collection, production and dissemination of intelligence on foreign aspects of narcotics production and trafficking (Section 1.8(b)), and the responsibilities of the foreign intelligence and counterintelligence elements of the U.S. armed services also include the collection, production and dissemination of information on the foreign aspects of narcotics production and trafficking. Section 1.12(d)(1).

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narcotics intelligence,[241] the Federal drug trafficking prevention effort would be seriously crippled.[242]

During 1981 the deleterious effect of drug trafficking on the quality of life in Florida, and especially in South Florida, had become so great that the State's citizens demanded prompt and effective responses by government at all levels.[243] At the Federal level, President Reagan established on January 28, 1982, a cabinet-level South Florida Task Force, also known as Operation Florida, which was chaired by Vice President Bush, to "assist and coordinate Federal efforts with those of State and local authorities in order to reduce crime"[244] and which was patterned after previous multi-agency efforts, such as the CENTAC program. The South Florida Task Force was intended to be a "broad, multifaceted anti-crime program," but its focus was on interdiction and the arrest and prosecution of drug smugglers.[245] Assistance to the South Florida Task Force, which became operational on March 15, 1982, was provided by DEA, Customs, FBI, BATF, the Marshals Service, the Coast Guard, and the Department of Defense.

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[241] The following statement briefly explains the differences between strategic, operational and tactical intelligence:

> Strategic intelligence, which represents the collective knowledge and experience concerning drug trafficking and abuse trends, identifies those areas and activities upon which anti-drug resources can have the greatest impact. Essential to policy development, strategic intelligence also provides the framework within which individual agencies may more effectively deploy resources and plan operations. Operational intelligence identifies specific individuals and organizations responsible for the importation and distribution of illicit drugs, defines the extent of their criminal activity, and, as a by-product, provides valuable details on drug trafficking organizations. Tactical intelligence provides information concerning anticipated drug or drug-related criminal acts so that enforcement agencies can take effective action.

National Drug Enforcement Policy Board, Interim Report to Congress 19 (July 1985).

[242] The National Drug Enforcement Policy Board has stated:

> Timely and reliable intelligence on drug abuse, drug production and drug trafficking enhances the effectiveness of the numerous elements involved in implementing the National Strategy.

Id. at 19.

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[243] The deplorable and lawless situation that characterized Florida in 1981 had developed because of the State's proximity to South and Central American source countries and trafficking routes, its many miles of coastline, its importance as a tourist, trade and banking center, and the often deadly competition between smuggling groups. *1983 OCDE Report*, *supra* note 2, at 14. A good indicator of the amount of drug activity occurring in Florida during this period were currency statistics:

> As early as 1978, the Federal Reserve Banks in Miami and Jacksonville received a surplus of $3.3 billion in currency from financial institutions in Florida. In contrast, the remaining 35 Federal Reserve Banks were required to provide the institutions they serviced with some $3.5 billion in currency. By 1984 the Miami Branch of the Federal Reserve experienced a cash surplus of $1.7 billion!

1984 Annual Report of the Organized Crime Drug Enforcement Task Force Program 16 (March 1985) (*1984 OCDE Report*). One of the first official Federal responses to the situation in Florida was the establishment in 1980 of Operation Greenback. Drawing upon the investigative resources of IRS, DEA and Customs, Operation Greenback units in Miami, Tampa, and San Juan "focused upon the flow of illegal drug money through the area's legitimate institutions." *Id.*

[244] *1983 OCDE Report*, *supra* note 2, at 15.

One of the more significant features of the South Florida Task Force was the creation of the South Florida Joint Task Group, which consisted of DEA and Customs personnel and which was charged with conducting follow-up investigations of drug interdictions. In authorizing Customs agents to conduct such investigations under the supervision of DEA on March 20, 1982, the Attorney General modified, albeit slightly, the structure of Federal drug enforcement that had been established by President Nixon's 1973 reorganization plan. That plan had prohibited Customs agents from exercising investigative, intelligence, and law enforcement functions at locations away from ports of entry or borders. This action was in effect a recognition, long overdue, that it was necessary, if law enforcement efforts against drug trafficking were to be improved, for Customs' intelligence and investigative functions to be expanded.

Operations Greenback and Florida were successful in that they forced traffickers to reduce their activities in Florida.

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[245] Comptroller General, Report to Congress: Federal Drug Interdiction Efforts Need Strong Central Oversight 24 (GAO/GGD-83-52)(June 13, 1983).

However, the increased law enforcement pressure, as had happened so many times in the past, resulted in the traffickers diverting drug smuggling to Gulf and Eastern ports of entry and their money laundering activities to New York and the California-Mexico area.[246] The successes achieved by the Florida multiagency operations thus exacerbated an already serious nationwide drug problem,[247] but they also provided a model for responding to that problem. In 1982 the Attorney General appointed a committee to develop new approaches to the drug trafficking problem. The Committee concluded that "no single agency could cope with the problem" and that "many previous cooperative ventures, although limited in scope by comparison, provided the promise that agencies can cooperate and . . . only full-scale teamwork could meet the crisis . . . ."[248] The Committee's conclusions led to President Reagan's announcement on October 14, 1982, of the formation of 12 regional Organized Crime Drug Enforcement Task

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[246] 1984 OCDE Report, supra note 243 at 16.

[247] In 1981, the Attorney General directed every United States Attorney to establish a Law Enforcement Coordinating Committee to determine the most serious crime problems faced by his or her district and to coordinate Federal, State and local efforts in responding to those problems. Ninety-three of the 94 Law Enforcement Coordinating Committees listed drugs as the chief crime problem in its district. Address by Attorney General William French Smith, Ceremony to Announce President Reagan's Program to Combat Drug Trafficking and Organized Crime (Oct. 14, 1982).

[248] 1983 OCDE Report, supra note 2, at 15. In addition to the Task Forces, the President also announced the creation of this Commission and a Cabinet-level Committee on Organized Crime which was to be chaired by the Attorney General and which was charged with reviewing and coordinating all Federal efforts against organized crime.

Forces, which were authorized in January 1983 and became operational during the spring of that year.[249]

The Organized Crime Drug Enforcement Task Force Program (OCDETF Program) is modelled after the South Florida Task Force, but its objectives are quite different. While the primary objective of the South Florida Task Force is the interdiction of drugs, the focus of the OCDETF Program is the leaders of large organizations, which control drug importation and distribution networks, and the disruption of those networks.[250] The participating Federal agencies are the U.S. Attorney's offices, DEA, FBI, Customs, BATF, IRS, the Coast Guard, and the U.S. Marshals Service. The OCDETF Program differs from previous multi-agency law enforcement efforts in several respects: the task forces are directly controlled by the Attorney General; the initial funding was under the control of the Attorney General; and the task forces are to focus on only one major segment of organized criminal activity, drug trafficking.[251] Because the OCDE Task Forces are not intended to replace existing Federal enforcement efforts against drugs and organized crime, the work of the Organized Crime Strike Forces and the South Florida Task Force continue, as do the efforts of the FBI, DEA, Customs, and U.S. Attorneys directed against organized crime groups involved in drug trafficking.[252]

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[249] 1984 OCDE Report, supra note 243, at 1.

[250] General Accounting Office, Report to Senator Joseph R. Biden, Jr. Organized Crime Drug Enforcement Task Forces: Status and Observations 2 (December 9, 1983) (hereinafter cited as GAO Report to Senator Biden).

[251] Two additional points about the Program should be noted: participating organizations were to retain their organizational affiliations and identities (1983 OCDE Report, supra note 2, at 17) and the task forces were expected to make use of financial investigative techniques to the greatest extent possible. GAO Report to Senator Biden, supra note 250, at 2.

Shortly after the establishment of the OCDETF Program, the Reagan Administration adopted another multi-agency approach to one facet of the Nation's supply reduction efforts, interdiction, by creating the National Narcotics Border Interdiction System (NNBIS) which was to be headed by Vice President Bush.[253]

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[252] On October 1, 1984, the Florida/Caribbean OCDE Task Force became operational in Miami. The establishment of this task force did not result in the discontinuation of the South Florida Task Force.

[253] Shortly before the creation of NNBIS, the Comptroller General submitted a draft of a report concerning Federal interdiction efforts to individuals in departments and agencies with responsibilities for that function. The final version of this Report appeared in June 1983. Comptroller General, *Report to the Congress: Federal Drug Interdiction Efforts Need Strong Central Oversight* (GAO/GGD-83-52) (June 13, 1983). After noting that the resources devoted to interdiction efforts had tripled between 1977 and 1982, the Comptroller General found that "only 16 percent of the marijuana and less than 10 percent of heroin, cocaine, and dangerous drugs that are entering this country are seized . . . ." *Id.* at ii (footnote omitted). The Comptroller eneral offered the following explanation for the disparity between resources expended and results obtained:

> The authority and responsibility for Federal drug interdiction efforts are split among [DEA, Customs, and the Coast Guard]. Each agency has different programs, goals, and priorities. And, although the level of cooperation is increasing . . . , such fragmentation has a certain amount of inefficiency and interagency conflict built in.

Id. Citing the South Florida Task Force as an example of the cooperation needed, the Comptroller General concluded that to be

NNBIS was given the responsibility for informally coordinating the interdiction efforts of other organizations; it could recommend, but not require, that the organizations take certain actions, and it itself was not authorized to interdict drugs. When it became operational, NNBIS took over the interdiction coordination responsibilities of the South Florida Task Force.[254] Despite the establishment of the National Drug Enforcement Policy Board in 1984, NNBIS continues to operate as an interdiction coordinating body.

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more successful, Federal interdiction efforts required strong central oversight.

[254] General Accounting Office, Report to Congressman Glenn English: Customs Service's Participation in Followup Investigations of Drug Smuggling Interdictions in South Florida 4 (July 18, 1984).

CHAPTER V: CURRENT AGENCY ROLES IN DRUG ENFORCEMENT, POLICY, AND REDUCING DRUG DEMAND

INTRODUCTION

The preceding chapter of this report discusses the historical development of Federal drug policy and demonstrates that the Federal response to the problems of drug abuse and drug trafficking has become more complex over time. A good indicator of the present complexity of the Federal response is the fact that 32 Federal agencies are now involved in the multifaceted effort to reduce the supply of and demand for drugs. In this chapter, the Commission describes the current anti-drug efforts of the principal Federal agencies and their roles in the national strategy.[1] The agencies are grouped by function, beginning with those with central policy roles, followed by international efforts, interdiction, domestic enforcement, data gathering, intelligence, and United Nations efforts.

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[1] Only the Federal participants with major drug abuse program responsibilities are discussed herein. For a complete listing of the Federal agencies involved, see Appendix A to White House Drug Abuse Policy Office, 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking (hereinafter cited as 1984 National Strategy).

OVERALL POLICY

The National Drug Enforcement Policy Board

The National Narcotics Act of 1984 created the National Drug Enforcement Policy Board (the Board).[2] This Cabinet-level Board consists of the Attorney General as Chairman and the Secretaries of State, Treasury, Defense, Transportation, and Health and Human Services, as well as the Directors of Central Intelligence and the Office of Management and Budget, as members. It is the latest manifestation in the persistent effort to achieve singularity of purpose in the fight against drug abuse, despite the diversity of Federal agencies involved.[3] This fact is explicitly recognized in the pertinent statutory language, found at §1302(b) of the Act, in which Congress expresses its intent to:

> (1) Maintain a national and international effort against illegal drugs;
>
> (2) Coordinate fully the activities of the Federal agencies involved; and
>
> (3) Charge a single, competent, and responsible high-level Board of the United States Government, chaired by the Attorney General, with responsibility for coordinating United States policy with respect to national and international drug law enforcement.

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[2] Pub. L. No. 98-473, Title II, §1301, 98 Stat. 2168 (Oct. 12, 1984).

[3] *See supra* at 205-271.

This intent is based upon sweeping Congressional findings set forth in §1302(a) of the Act:

> (1) The flow of illegal narcotics into the United States is a major and growing problem.
>
> (2) The problem of illegal drug activity falls across the entire spectrum of Federal activities both nationally and internationally.
>
> (3) Illegal drug trafficking is estimated by the General Accounting Office to be an $80 billion per annum industry in the United States.
>
> (4) The annual consumption of drugs has reached epidemic proportions.
>
> (5) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact, and United States agencies estimate that they are able to interdict no more than 5 to 15 percent of all hard drugs flowing into the country.
>
> (6) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.
>
> (7) Increased drug trafficking is strongly linked to violent addiction-related crime, and recent studies have shown that over 90 percent of heroin users rely upon criminal activity as a means of income.
>
> (8) Much of the drug trafficking is handled by syndicates, a situation that results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.
> (9) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.
>
> (10) The magnitude and scope of the problem requires the establishment of a National Drug Enforcement Policy Board, chaired by the Attorney General, to facilitate coordination of all Federal efforts by relevant agencies.
>
> (11) Such a Board must have responsibility for coordinating the operations of Federal agencies involved in attacking the

problem through the development of policy and resources, so that a unified and efficient effort can be undertaken.

To accomplish the statutory purpose, §1304 of the Act specifically impowers the Board to improve policy development and coordination among Federal agencies by:

> (1) reviewing, evaluating, and developing U.S. government policy, strategy, and resources with respect to drug law enforcement efforts, including the setting of budgetary priorities and development of a national and international drug enforcement strategy;
>
> (2) facilitating coordination of all U.S. government efforts to halt national and international trafficking in illegal drugs;
>
> (3) coordinating the collection and evaluation of information necessary to implement U.S. policy with respect to drug law enforcement.

In furtherance of these aims §1306 of the Act directs the Director of the Drug Abuse Policy Office to serve as an advisor to the Board on matters related to health issues in the drug abuse field. As a principal figure in the area of interdiction, the Vice President is included as an *ex officio* member.[4]

The Policy Board has adopted the following organizational structure to implement its objectives:

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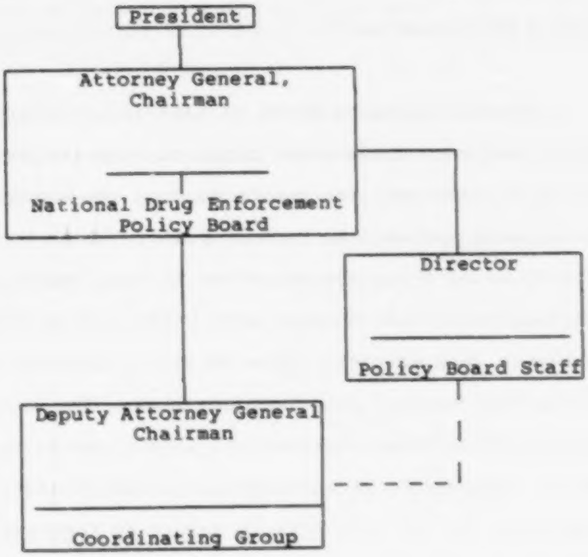
[4] Statement by Dr. Patrick Tarr, Director, Policy Board Staff, to Commission staff (Dec. 9, 1985).


President
Attorney General, Chairman
National Drug Enforcement Policy Board
Director
Policy Board Staff
Deputy Attorney General Chairman
Coordinating Group

(Source: National Drug Enforcement Policy Board, Interim Report to Congress, July 1985)

Under this scheme the Attorney General as Board Chairman, in consultation with the other members, supervises the preparation of initiatives for consideration by the Board. The Board, under the direction of the Chairman, then determines which items to include on its agenda and what priority each is to receive. Such items are then referred to the Coordinating Group, chaired by the

Deputy Attorney General and consisting of senior officials from the member agencies.[5]

The Coordinating Group in turn is to submit to the Board practical recommendations, based on consultation with the agencies involved, for resolving drug law enforcement issues and developing appropriate Federal policy. Both the Board and the Coordinating Group are supported in their efforts by a full-time professional staff charged with performing necessary research, analysis, and writing. This staff is composed of individuals drawn from various principal agencies. The intent of this multi-agency composition at all levels, Board, Coordinating Group, and staff, is a reflection of the Board's intent, as expressed in its 1985 Interim Report to Congress:

> This structure reflects the need for interagency participation at every level of Policy Board activity. The underlying principle is that there is a practical advantage to resolving differences at the lowest level possible. Disagreements on issues will inevitably occur among various agency participants, but if all

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[5] These Agencies include: Office of the Vice President; Office of Drug Abuse Policy; Office of Management and Budget; Central Intelligence agency; Department of Defense; National Institute on Drug Abuse, Department of Health and Human Services; Department of Justice's Criminal Division, Drug Enforcement Administration, Federal Bureau of Investigation, Immigration and Naturalization Service, and United States Marshals Service; Bureau of of International Narcotics Matters, Department of State; The Department of Treasury's Office of the Secretary, Customs Service, Internal Revenue Service, and Bureau of Alcohol, Tobacco and Firearms; and The Department of Transportation's Office of the Secretary, Federal Aviation Administration, and United States Coast Guard. National Drug Enforcement Policy Board, Interim Report to Congress 38-40 (July 1985) (hereinafter cited as NDEPB Interim Report.

> points of view are represented at each level, many differences can be worked out by the Staff or Coordinating Group rather than being elevated to the Policy Board.[6]

§1304(a) of the Act specifically directs the Board to focus its work on two parts of the five-point National Strategy on Drug Abuse: drug law enforcement and international cooperation. In the area of drug enforcement, the Board pursues four principal strategies: 1) illegal drugs are to be destroyed at their source; 2) drug contraband is to be intercepted and seized en route to or at the borders of the United States; 3) drug trafficking organizations are to be identified, investigated and prosecuted, and drug related assets seized and forfeited; and 4) regulatory means are to be exercised to stem diverted drug abuse.[7]

The Board commenced its activities on April 24, 1985, almost a year after its creation. In its first meeting, it adopted the organizational structure described above. In the months between April 1985 and the end of that year, the Board met five times and the Coordinating Group, five times.[8] Issues referred to the Coordinating Group during that time include "designer" drugs, efforts to improve government-wide drug seizure statistics, and drug crisis management. Its agenda includes a report in January

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[6] *Id.* at 37.

[7] *Id.* at 2-3.

[8] Statement by Dr. Patrick Tarr, Director, Policy Board Staff, to Commission staff (Dec. 9, 1985).

1986, required by the Narcotics Act of 1984, on the Board's achievements and the effectiveness of its policies to combat national and international drug trafficking. It is also to publish a 1986 strategy report.[9] Items under consideration for inclusion in the Boards agenda are:

> Budget Review. The Government has increased substantially the amount of resources devoted to drug law enforcement. Because of the numerous agencies and departments now involved in combatting drug trafficking, the Policy Board is an ideal forum for considering the Government's overall drug law enforcement budget. The Board may undertake budget reviews to determine whether resources are appropriately allocated. Consideration will also be given to insuring proper interagency balance and the optimal use of tax dollars and resources in the drug war.
>
> Memoranda of Understanding. The Board may review the numerous jurisdictional Memoranda of Understanding between Federal agencies to determine the effectiveness of these mechanisms for interagency cooperation.
>
> Interdiction. The Board may examine all of the interdiction programs currently in place. Since, in the last few years, the Federal Government has made an increased effort to prevent illegal drugs from entering the United States, the Board may propose to analyze the effectiveness of interdiction as an overall law enforcement strategy. The Board will also consider the experience gained from the 1981 exception to the Posse Comitatus Act to determine whether additional legislative action is needed.
>
> Eradication. The Board proposes to assess the efficacy of all eradication strategies and the cost-effectiveness of eradication as a drug law enforcement strategy. In addition, it will address how eradication relates to other elements of our enforcement strategy. Because domestic marijuana reduction involves a number of agencies, this issue is well suited to a study by the Policy Board and its staff.

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[9] NDEPB Interim Report, supra note 5, at 45.

> Other Issues. The Board may also refer other issues for additional staff analysis. These might include: money laundering; financial investigative techniques, including asset forfeiture; the relationship of supply and demand reduction strategies; and the collection and sharing of drug intelligence.[10]

The Board's vision of its role is summed up in its *Interim Report*:

> The Board is assuming the task of coordinating all drug related programs. To do this, the Board may develop a planning and management process for policy development and evaluation of the nation's narcotics law enforcement programs.[11]

White House Drug Abuse Policy Office

Created within the White House by Executive Order 12368,[12] the Drug Policy Abuse Office was established to ensure that the President is provided with a center for coordination and oversight of both national and international drug abuse functions of all executive branch agencies. The role of this office has been expanded to include drug trafficking issues as well. The office publishes a regular report on both drug abuse and drug trafficking, the *National Strategy*, which provides policy direction for all agencies involved in anti-drug efforts. As part of the White House Office of Policy Development, the White

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[10] *Id.* at 45-46.

[11] *Id.* at 46.

[12] *1984 National Strategy*, *supra* note 1.

House Drug Abuse Policy Office provides the President with a direct advisor on drug abuse policy matters.[13]

INTERNATIONAL EFFORTS

Bureau of International Narcotics Matters

As the Federal agency responsible for coordinating the United States' drug control efforts overseas, the Department of State's Bureau of International Narcotics Matters (BINM) is pivotal in implementing U.S. anti-drug policy on the international level.[14] BINM attempts to encourage foreign coordination for joint illicit drug control activities; bilateral assistance for crop control and interdiction programs in the form of equipment, training and technical advisory services; participation in international organizations to increase drug control efforts in licit and illicit drug production countries; training programs for foreign personnel in illicit drug control functions to strengthen interdiction and enforcement efforts; guidance, coordination and support of the work abroad of all U.S. government agencies involved in drug control; and technical assistance for international demand reduction.[15] BINM currently provides support for drug eradication efforts in 14 countries and is in large part responsible for much of the world's crop control and eradication efforts, described elsewhere in this report.

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[13] Id. at 4.

[14] Bureau of International Narcotics Matters of the U.S. Department of State, International Narcotics Control Strategy Report 1985, at 14-15 (unclassified version, Feb. 1, 1985) (submitted to the Senate Comm. on Foreign Relations and the House Comm. on Foreign Affairs).

[15] Bureau of International Narcotics Matters of the U.S. Department

Agency for International Development

Section 126 of the Foreign Assistance Act instructs the Agency for International Development (AID) to "give priority consideration to programs which would help reduce illicit narcotics cultivation by stimulating broader development opportunities." Given this mandate, AID issued Policy Determination No. 1 on drugs in 1982, encouraging the design of projects that provide economic alternatives to farmers in drug growing areas. Overseas, AID coordinates with the State Department's Bureau of International Narcotics Matters.

AID drug control efforts include finding a suitable mix of substitute crops, assuring free market incentives, and encouraging appropriate host country pricing and marketing policies. AID attempts to develop and implement development projects that facilitate the host government's enforcement of existing bans on drug production.

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of State, Development Assistance to Illicit Narcotics Producing Regions (Feb. 1985).

Department of Agriculture

The United States Department of Agriculture through the Agricultural Research Service (ARS) assists in the control of illicit drug plants by providing technical information pertaining to eradication and substitute crops. Scientists in the ARS conduct research on the use of herbicides and other techniques for eradication, as well as the use of substitute crops for farmers presently producing drugs. ARS scientists also provide expert advice to the State Department and cooperating foreign countries regarding proposed eradication programs. Potential adverse environmental impacts are assessed prior to the recommendation of control measures, whether it be chemical, mechanical, fire, biological, or through genetic manipulation or a combination of two or more of these techniques. Scientists from ARS have been involved in drug research since 1972 and have assisted control authorities in several drug producing countries in the Americas and the Near and Far East.[16]

INTERDICTION

National Narcotics Border Interdiction System

The National Narcotics Border Interdiction System (NNBIS) attempts to accomplish comprehensive planning in the limited area of interdiction at or approaching U.S. borders. NNBIS was created by the President on March 23, 1983, and is directed by the Vice President.[17]

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[16] 1984 National Strategy, *supra* note 1, at 118.

NNBIS' mission is to improve border interdiction by accomplishing a threefold goal: to continue to improve interagency coordination among law enforcement agencies; to maximize the participation of the military services and Federal agencies involved in drug interdiction; and to increase and provide interaction for intelligence community involvement in interdiction efforts. Participating agencies include the U.S. Customs Service, the U.S. Coast Guard, the Drug Enforcement Administration (of particular importance is the contribution of DEA's El Paso Intelligence Center-EPIC)[18] the Border Patrol, the Department of Defense, the Central Intelligence Agency, the Federal Aviation Administration, the National Oceanic and Atmospheric Administration, the Federal Communications

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[17] _See infra_ at 356-359.

[18] EPIC's contribution to the NNBIS effort is of critical importance and interest, for at the NNBIS/EPIC interface there is a commonality of purpose that can lead to further consolidation and improvement, a possibility discussed in Chapter 8 of this report. EPIC's specific contributions to NNBIS currently are described on page 4 of the statement of John M. Zienter, then Acting Assistant Administrator for Operations of the Drug Enforcement Administration, before the House Subcommittee on Government Information, Justice and Agriculture, July 18, 1985:

> EPIC provides NNBIS Centers with trend and trafficking assessments, movement indicator studies, data base inventories, and all recurring EPIC reports and publications. Most importantly, EPIC transmits all vessel and aircraft lookouts to NNBIS and services the NNBIS centers by responding to any specific inquiries of the various data bases available to EPIC.

Commission, and the Department of State. NNBIS itself consists of a headquarters staff in Washington, D.C. and six regional offices: Miami, New Orleans, El Paso, New York, Chicago and Long Beach, California.

Actual interdiction at or approaching U.S. borders is accomplished by individual agencies during single agency or multi-agency special operations. The role of NNBIS is to provide necessary equipment, intelligence, detection and trend analysis support. Specific NNBIS contributions to drug seizures consist of direct support, such as the passing of "real-time" information, general information, or regional analysis. NNBIS staffs, consisting of agency-contributed personnel in both Washington and the regional centers, coordinate with contributing agency staffs to lay the groundwork for special initiatives, which then can proceed in a timely fashion to enhance drug law enforcement efforts. Of critical importance in understanding NNBIS' role is the fact that the activity has no funding of its own. It is entirely dependent upon agency contributions of manpower and intelligence and does not have a direct operational authority. It can only inform and advise its constituent agencies concerning opportunities for coordinated or expanded operations. Thus, criticisms of NNBIS, alleging that many seizures would have occurred anyway, even if NNBIS did not exist[19], miss the point. Individual agencies are intended, indeed mandated, to carry out their missions, including contraband seizures. NNBIS is intended to supplement, not replace, those efforts. It has a steadily improving record of doing so, a fact recognized even by some critics.[20]

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[19] United States General Accounting Office, Coordination of Federal Drug Interdiction Efforts, 4 (GAO/GGD-85-67).

Operation Hat Trick I

In the fall of 1984 Hat Trick I, the first major coordination effort attempted under the NNBIS management mechanism, was undertaken. Hat Trick I was designed to disrupt the transshipment of the fall harvest of marijuana from Colombia, while simultaneously intercepting any cocaine shipped during the operation.

During the 60-day operation, an intercept line of Coast Guard and Navy ships was formed in the Caribbean to halt smuggling vessels. The Department of Defense supplemented the operation with electronic equipment capable of detecting both aircraft which flew over the ships and vessels which slipped through the net. Additionally, the Customs Service and Border Patrol increased their efforts at and between the ports of entry to the United States, and the intelligence community added previously unprecedented support to the effort. This multi-agency approach emphasized the critical need for compatible communications capabilities. This lesson is being carried forward in current operational planning.

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[20] Id. at 6-7.

The anticipated reaction to this operation was an attempt by the smugglers in Colombia to stockpile shipments. To counter this, multi-agency teams, headed by the Department of State, visited Colombia and neighboring countries to brief officials there about the operation and to elicit their support. The Colombian government, which had declared a "war without quarter" against drugs the previous year, seized the opportunity to step up efforts to destroy the marijuana in that country. Colombian officials were also placed aboard U.S. Coast Guard cutters, operating off the Colombian coast to coordinate with Colombian enforcement units.

Operation Hat Trick I proceeded as expected, with massive maritime seizures, and a significant reduction of maritime drug shipments. According to NNBIS, over 600,000 pounds of marijuana and 6,000 pounds of cocaine were seized by U.S. agencies during the operation. Simultaneously, the Colombian government, through eradication and destruction of stockpiled contraband, removed over 50 percent of the fall marijuana crop from possible export.[21]

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[21] National Narcotics Border Interdiction System.

Operation Hat Trick II

Operation Hat Trick I has come to be viewed as a prototype effort in it initiated improvements in planning, communications security, in-country efforts, air operations, intelligence and resource support. Hat Trick II, a much more ambitious operation begun in November 1985 and still under way,[22] is the logical follow-on, drawing carefully on lessons learned from Hat Trick I.

Coordinated by NNBIS and consisting of the combined forces of U.S. civilian drug enforcement agencies and all branches of the military, Hat Trick II involves increased land and air patrols to disrupt drug traffic into the United States. The long-term goal of the operation is to affect the worldwide availability of drugs by increasing international pressure on trafficking organizations. It is a complex operation that tightens surveillance along our border with Mexico and along the known air and ocean supply routes from South America and other Caribbean countries.

The United States Navy and the Coast Guard, working together, provide the primary maritime surveillance and interdiction forces for Hat Trick II, while the U.S. Customs

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[22] Because Hat Trick II was in progress at the time this report was being prepared, much of the specific information concerning techniques and results, many of which are very promising, remained classified. The material included here was provided in a briefing paper provided to Commission staff by NNBIS Director Howard Gehring on December 11, 1985.

Service works as the lead agency with the Navy, Air Force, Army and Marines in directing air operations. The Customs Service and the Immigration and Naturalization Service Border Patrol are conducting intensified operations all along U.S. land and sea borders. Through Department of State and DEA initiatives, the U.S. is working to provide the maximum coordination of anti-drug efforts in foreign countries.

Hat Trick II employs military surveillance aircraft to identify and track smugglers and to exploit the known routes traffickers use from their source countries to their ultimate destination. If the smugglers attempt to hide and wait in a source or transit country, the drug enforcement authorities in those countries are prepared to seize drugs and make arrests. An important key to Hat Trick II lies in the ability of source and transit countries to take advantage of the disruption the United States has caused in normal drug trafficking. Colombia, Panama, Venezuela, Jamaica and other countries throughout the region are cooperating in this international effort.

Hat Trick II has contributed significantly to institutional change among involved agencies. For example, as a result of planning initiatives for Hat Trick II, the U.S. Navy has changed its policies, and Navy ships have served as platforms for a significantly increased number of Coast Guard interdictions. Further, military radars have become a much more significant factor in aircraft seizures. The diversions in smuggling routes and methods caused by the operation have made drug trafficking a more costly enterprise for smugglers, and secure communications enhancements have kept operational information away from them. Major cocaine seizures have resulted from U.S. Bahamian cooperation. The intelligence community has greatly increased its collection and dissemination of tactical intelligence. Each law enforcement agency has, in essence, developed specialized intra-agency operations in support of the overall Hat Trick II effort.

Operation Blue Lighting

To test the effectiveness of conducting an operation with Federal, State and local participation, as well as exercising the growing U.S.-Bahamian partnership against drug smuggling, a major special operation, entitled "Blue Lightning," was devised and coordinated from the NNBIS Regional Center in Miami.

Blue Lightning concentrated on two geographical areas, the Bahamian Archipelago and the area West of the Bahamas up to and including the coast of Florida. In the Bahamas islands were targeted as "stash sites," or drug holding areas, and unannounced sweep teams were flown in to search for contraband. The sweep teams were composed of Bahamian Police, transported by U.S. military helicopters. Efforts were coordinated by the DEA and

U.S. Embassy in Nassau. The effort outside the Bahamas included coordinated, augmented air and sea detection capability up to the Florida coast. As a primary participant in the NNBIS coordinated operation, the U.S. Customs Service was requested to assume lead agency status for the portion of the operation outside the Bahamas. Overall Blue Lightning participants included 16 State, county and city law enforcement agencies, the Customs Service, Department of Defense, Coast Guard, and National Park Service in addition to the DEA and the Government of the Bahamas. Additionally, Bahamian personnel were assigned to South Florida for the duration of the operation to fly law enforcement missions with U.S. Customs.

The raids by Bahamian authorities forced smugglers to move their drugs to the U.S. immediately, where law enforcement units were positioned to intercept them. Over 6,000 pounds of cocaine, 33,000 pounds of marijuana, and over $1.5 million worth of vessels, aircraft, trailers and cash were seized.[23] Additionally, interdiction techniques were tested and refined, heightening the ability to conduct coordinated international and interagency operations.

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[23] Statement of John M. Zienter, supra note 18, at 6.

U.S. Coast Guard

Responsible in large part for U.S. drug interdiction orts, the Coast Guard's strategy has been mainly directed ard intercepting motherships as they transit the major passes the Caribbean.[24] To effect this "choke point" strategy, the st Guard conducts both continuous surface patrols and frequent veillance flights over the waters of interest, and boards inspects suspect vessels at sea. In the past major Coast rd resources have been concentrated in the "choke points" ditionally transversed by trafficers.[25] Cutters now more quently patrol the Bahamas, the eastern passes of the ibbean, and the Gulf, Atlantic and Pacific coastal areas.

During the past several years the Coast Guard has increased number of cutter patrol days and aircraft operating hours oted to drug interdiction, increasing their ability to respond ckly to sightings and other intelligence. In addition, the st Guard is deploying leased Sea Based Aerostats (SBA's), ch are small tethered balloons equipped with surface search ar, tethered offshore at sufficient altitude to greatly rease its range. As part of a coordinated operation, surface get information is passed to a command and control cutter for

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or a definition of mothership, see *supra* at 118, n.193.

ee *supra* at 68.

evaluation and deployment of other assigned units, both surface and air.

Better intelligence remains an important factor in increasing the Coast Guard's overall interdiction effectiveness. The most critical need is timely and accurate information on the number, identity, location and destination of vessels and aircraft carrying contraband which are bound for the United States. During the past two years improvements have been made in the collection, evaluation, and dissemination of intelligence. A new intelligence coordination center in Washington, D.C. maintains a 24-hour all-source watch to exploit all intelligence systems available to the Coast Guard, and produces intelligence tailored to the needs of operational commanders. The Coast Guard is also continuing liaison with the law enforcement community's intelligence network.[26]

U. S. Customs Service

The U.S. Customs Service participates in several multiagency investigative programs, including the Florida Joint Task Group and the President's Organized Crime Drug Enforcement Task Force. The efforts of these two programs alone resulted in 1,194 arrests and drug seizures of 35,702 pounds of cocaine, 132 pounds of heroin, and 3,848,293 pounds of marijuana from FY 1982 to FY 1985.[27]

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[26] United States Coast Guard, Coast Guard Narcotics Interdiction Initiatives 1-5 (U.S.C.G. Document G-OLE-3, October 28, 1985).

Prompted by the increasing sophistication of violators of critical technology and trade laws, including individuals in drug-related activities, the Customs Service established an Office of Intelligence in 1981. Customs-acquired intelligence of national security interest is, for the first time, actively being disseminated to community agencies, and the intelligence community is currently developing information useful for drug enforcement. The development of secure communications facilities within the Customs Service, currently underway, will further enhance this capability.

The Customs Aviation and Marine Programs are consistenty changed and upgraded to reflect new technologies and equipment and improved tactics and strategy. Drug smugglers have responded to these programs by adjusting their routes to elude the increased effectiveness of enforcement officials.

The Customs Service has developed teams of inspectors and canine enforcement officers to more thoroughly examine persons, conveyances, and cargo determined to be high risk. These mobile teams, which use highly trained dogs to detect drugs, allow Customs to release cargo and passengers deemed to be low risk without examination, thus speeding the entry of most people and cargo. The teams comprise 12 percent of the inspectional workforce, but have accounted for the greater proportion of the drug seizures. During the first 9 months of FY 1985, they have been responsible for 66 percent (10,269 pounds) of the hashish, 87 percent (876 pounds) of the cocaine, and 40 percent (243 pounds) of the heroin that has been seized by inspectors.[28]

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[27] United States Customs Service.

During the past three years, the Customs Service has attempted to convince the commercial air and sea carriers of their responsibilities in the effort to halt drug trafficking. As part of this initiative Customs contacted the major carriers and signed cooperative agreements with a number of them. These set out specific measures designed to prevent and detect the use of commercial vessels and aircraft that smuggle drugs and other contraband. Customs works closely with carriers, to apprise them of their vulnerabilities through regular meetings; to provide a training program on cargo, aircraft, and facility security; to perform security surveys; and to compile threat assessments. This cooperation between Customs and commercial carriers has led to the detection of drugs and the transmittal of valuable intelligence to local customs officials.[29].

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[28] United States Customs Service.

[29] United States Customs Service.

Department of Defense

In 1981 Congress passed legislation clarifying statutory restrictions on the use of Department of Defense (DOD) resources for law enforcement purposes. As a result, the Department of Defense now has greater freedom to support Federal law enforcement agencies. DOD resources play an important role in the Federal drug interdiction program by providing surveillance and support services, such as using aircraft to search for smugglers and Navy ships to tow or escort vessels seized by the Coast Guard to the nearest U.S. port. As of the end of September 1985, the DOD has been involved in 38 vessel seizures, and their assistance has been invaluable during NNBIS-directed joint operations.

DOD's increased involvement in drug law enforcement as a result of amendments to the Posse Comitatus Act,[30] has proved pivotal in many instances. In fact, the Joint Chiefs of Staff recommended unanimously in early 1985 that the U.S. military be engaged to an unprecedented extent in fighting drug trafficking and production. It called for the implementation of a massive new program in which military forces would expand their present supportive role by becoming involved in drug interdiction, in training Central American nation's anti-drug forces, and in providing needed weapons and equipment.[31]

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[30] 10 U.S.C. §371. See infra at 359-365.

DOMESTIC ENFORCEMENT

Organized Crime Drug Enforcement Task Force Program

The Organized Crime Drug Enforcement Task Force Program (OCDETF), comprised of 13 Task Forces nationwide, brings all Federal agencies with drug enforcement responsibilities together into a coordinated effort against the largest and most important national and international drug trafficking rings. Justice Department agencies involved in the effort include the FBI, the DEA, and the Marshals Service; Treasury Department agencies include the U.S. Customs Service, the Bureau of Tobacco, Alcohol, and Firearms, and the International Revenue Service. The Coast Guard has a major role in the program as well, and the Department of Defense offers intelligence and information on sightings of suspected drug traffickers heading for the U.S. by sea and air.[32]

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[31] Letter to the President's Commission on Organized Crime from R. Dean Tice, Director, DOD Task Force on Drug Enforcement (Oct. 30, 1985) (summarizing DOD anti-drug initiatives). A summary of Department of Defense anti-drug efforts is found in Appendix E of this Report.

[32] U.S. Department of Justice, Briefing Paper on America's War Against Illicit Drugs 14-15 (Sept. 1984).

In slightly more than two and one-half years, the Task Force has produced 1,721 indictments against 6,545 defendants.[33] The Task Force emphasis is on prosecuting and imprisoning drug kingpins, money launderers, and financiers. There is also strong focus on seizing cash and drug-related assets. In fact, the assets seized may soon exceed the cost of the Task Force program.[34]

The Task force Program relies largely on the Continuing Criminal Enterprise Statutory provision and the Racketeer Influenced and Corrupt Organizations (RICO) statute. The conviction rate in cases reaching disposition is approximately 95 percent.[35] State and local officers participate in nearly one-half of the Task Force investigations.

New international law enforcement cooperation also has been achieved, since nearly one-half of Task Force cases target organizations international in scope. These efforts have received substantial support from foreign law enforcement agencies, as indicated by the fact that five percent of Task Force cases now involve direct participation by foreign police. This has created a new focal point for international drug investigations.

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[33] 1983 Annual Report of the Organized Crime Drug Enforcement Task Force Program, (March 1984).

[34] 1984 National Strategy, *supra* note 1, at 55-56.

[35] *Id.* at 65.

Drug Enforcement Administration

As the lead Federal drug agency the Drug Enforcement Administration (DEA) is charged with enforcing the controlled substance laws and regulations of the United States. DEA also participates in non-enforcement programs to reduce the demand for drugs. Part of the Department of Justice, DEA comprises 2,400 special agents in 121 domestic field offices and 61 offices in over 40 foreign countries.

DEA's primary objectives are:

- To bring to bear all the Federal resources on the arrest, prosecution, and immobilization of major drug trafficking organizations via continued coordination with other Federal agencies and the use of financial and legal tools, emerging technology, and sophisticated investigative techniques.
- To reduce the supply of illicit drugs from source countries, thereby reducing the availability of illicit drugs in the United States and abroad via source country initiatives, assistance to foreign government, training for foreign law enforcement authorities, and public support for successful foreign government endeavors.
- To significantly reduce the diversion of controlled substances from the legitimate channels in which they are manufactured, distributed, and dispensed through a vigorous program of investigations and State, local, and international cooperation.
- To enlist the active participation of State and local governments and law enforcement agencies in the national drug eradication program, clandestine

laboratory task forces, State and local task forces, and other multi-state coordinative efforts.

- To participate actively and aggressively in the Federal, State, and local effort to mobilize public support for the drug enforcement and abuse prevention program by implementing strategies and educational programs that stimulate cooperation among State and local criminal justice agencies, school, businesses, civic, and parent groups.
- To improve the effectiveness and efficiency of DEA operations through the implementation of specific programs designed to enhance employee performance.

Domestic Eradication Programs

The DEA's Domestic Eradication/Suppression Program has expanded significantly since the Drug Enforcement Administration first provided eradication assistance to Hawaii in 1979, and currently all 50 States participate in this venture.[36] DEA encourages State and local eradication and provides training, equipment, funding and investigative and aircraft resources. In 1984, with 48 States participating, approximately 3.8 million marijuana plants were eradicated. The Secretary of the Interior has also been authorized by a recent Executive Order to conduct an extensive eradication program targeting marijuana plants on Federal lands. Spraying commenced on October 6, 1985.[37]

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[36] 1984 National Strategy, supra note 1, at 55-56.

[37] U.S. Department of Justice, supra note 32, at 16-18.

El Paso Intelligence Center

The El Paso Intelligence Center (EPIC) is the Drug Enforcement Administration's national drug information center, with intelligence systems located at DEA headquarters, and in DEA's foreign and domestic offices.[38] EPIC's strategic intelligence program furnishes geographic assessments, estimates, and warnings of drug availability, production, trafficking trends and routes. It distributes information to foreign, Federal, State and local agencies through numerous publications. Its operational intelligence program directly supports investigations underway against top-level traffickers and supplies information on specific organizations and their financial assets to support investigations worldwide. As appropriate, this intelligence is shared with other Federal, State and local agencies to ensure its maximum utilization against drug traffickers. EPIC serves as a clearinghouse for drug information collected 24 hours a day.[39] With DEA as its lead agency, EPIC is staffed by special agents and intelligence analysts working with personnel from the FBI, Internal Revenue Service, U.S. Marshals Service, Federal Aviation Adminstration, Bureau of Alcohol, Tobacco and Firearms, Customs Service, Coast Guard, the Immigration and Naturalization Service, the Departments of Defense and State, and members of the Federal intelligence community. Today all States participate in EPIC through chartered arrangements made between DEA and the individual States.

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[38] U.S. Drug Enforcement Administration.

[39] U.S. Drug Enforcement Administration, EPIC Users Guide, 4.

Federal Bureau of Investigation

Although DEA is nominally the lead Drug Enforcement Agency, its Director reports to the Director of the FBI. In granting the FBI concurrent jurisdiction with DEA, the Attorney General has mandated that the FBI assume a significant drug enforcement role. He has also directed that FBI expertise in such areas as organized crime financial investigations and white-collar crime investigations be fully used in drug enforcement work.[40]

Both DEA and the FBI place strong emphasis on major distributors and organizations involved in the manufacturing, importing, distributing and financing of illicit controlled substances. Conspiracy investigations (particularly the Continuing Criminal Enterprise and Racketeer Influenced and Corrupt Organizations Statutes) are the focal point of investigation efforts.

Internal Revenue Service

Within the Department of the Treasury, the Internal Revenue Service (IRS) plays a critical role in U.S. drug control efforts by targeting drug traffickers' profits. IRS Financial Investigative Task Forces rely on the reports of financial transactions, filed by banks and other institutions, to identify financiers of criminal activities and money laundering specialists. These reports include Currency Transaction Reports and Foreign Bank Accounts Reports. Through these Task Forces trace the transferrals of large sums of cash and identify the proceeds of drug trafficking.[41]

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[40] 1984 National Strategy, supra note 1, at 49.

DATA GATHERING

National Institute on Drug Abuse

The National Institute on Drug Abuse (NIDA) is the principal source for current information about the effects of drug abuse.[42] NIDA was established in 1972 as part of the Department of Health, Education and Welfare, and for its first nine years, operated under a broad mandate that included providing direct financial assistance for drug abuse education, training, treatment, and rehabilitation, as well as conducting research programs. With the passage of The Alcohol and Drug Abuse and Mental Health Services Block Grant in 1981, full responsibility for carrying out treatment and prevention service functions was transferred from NIDA to the States.[43]

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[41] President's Commission on Organized Crime, *The Cash Connection: Organized Crime, Financial Institutions, and Money Laundering* (Interim Report, Oct. 1984).

[42] *1984 National Strategy*, *supra* note 1, at 38-39.

Now a part of the Department of Health and Human Service, NIDA's current role in reducing demand, as set forth both in the National Strategy and the Alcohol and Drug Abuse Amendments of 1983, is to develop and disseminate new knowledge about drug abuse, its prevention and treatment, and to exercise national leadership in encouraging and assisting the private sector, the States, and local governments to implement and support drug abuse prevention and treatment programs in their communities.[44]

The NIDA research program has several important components. Through its epidemiological research program NIDA assesses the nature and extent of the nation's drug abuse problem and its trends.[45] NIDA supports two ongoing epidemiological surveys, the National Household Survey on Drug Abuse and the High School Senior Survey. NIDA's Drug Abuse Warning Network (DAWN) monitors information on the health consequences of drug use through emergency room visit statistics and through medical examiner reports. In addition to these major efforts, NIDA provides grants for a number of special epidemiological studies.[46]

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[43] Pub. L. No. 97-35, §901, 95 Stat. 543-552 (Aug. 13, 1981).

[44] Alcohol and Drug Abuse Amendments of 1983, Pub. L. No. 24, 97 Stat. 175 (April 26, 1983).

[45] 1984 National Strategy, supra note 1, at 38-39; 103-105.

[46] Id. at 105; 117.

National Narcotics Intelligence Consumers Committee

The 11-agency National Narcotics Intelligence Consumers Committee consists of the U.S. Coast Guard, U.S. Customs Service, the Departments of Defense, State and Treasury, Drug Enforcement Administration, Immigration and Naturalization Service, National Institute on Drug Abuse, White House Drug Abuse Policy Office, Federal Bureau of Investigation and Internal Revenue Service.[47] This Committee was created as the primary vehicle at the national level for review and dissemination of strategic intelligence. It publishes an annual report, the "Narcotics Intelligence Estimate," which details the supply of drugs to the U.S. illicit market from foreign and domestic sources, and their patterns and rates of use.

INTELLIGENCE

Central Intelligence Agency

Since the signing of Executive Order 12333 in December 1981, the Central Intelligence Agency has provided assistance to drug law enforcement efforts through the collection, analysis, and dissemination of information regarding foreign narcotics production. The CIA plans to upgrade its capabilities to gather d assess drug-related intelligence over the next five years, d is currently coordinating research to develop chnologies, which can be used to better detect drug afficking.[48]

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[47] National Narcotics Intelligence Consumers Committee: National Intelligence Estimate 1984, at i.

ITED NATIONS

United Nations Fund for Drug Abuse Control

As the drug control arm of the United Nations, the United tions for Drug Abuse Control was established in 1979 to assist overnments by helping finance projects aimed at reducing the llicit supply of and demand for drugs.[49] Projects undertaken the United Nations Fund for Drug Abuse Control include eplacing illicit opium cultivation, treating and rehabilitating rug addicts, strengthening control measures, or organizing nformation and education programs. The Fund relies entirely on oluntary contributions, mainly from governments but also from rivate sources. The United States has long been the primary ontributor to the United Nations Fund for Drug Abuse Control. n early 1983, however, the Fund obtained a $40 million pledge, xtending over a five year period, from the government of Italy

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[8] The White House Drug Abuse Policy Office, The National Campaign gainst Drug Abuse (Sept. 27, 1984).

[9] Yearbook of the United Nations 928-929 (1979).

for coca control projects in South America. In early 1984 major donors to the United Nations Fund for Drug Abuse Control agreed that development assistance to narcotics growing regions should be linked to government commitments to control illicit drug production.[50]

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[50] *Id.*

CHAPTER VI: CURRENT SUPPLY STRATEGIES: ANALYSIS AND RECOMMENDATIONS

INTRODUCTION

Currently, the great bulk of our Federal drug abuse budget is devoted to strategies aimed at cutting off the supply of drugs available to users and prospective users. These strategies, such as source country eradication, interdiction, and domestic enforcement, are frequently attacked as expensive, too slow in producing perceptible results, and frequently dangerous for the public officials charged with carrying them out. Far too often such criticism seems to be the result of isolated examination without regard to the programs' proper long-term goal or relationship to strategic approaches to reduce demand.

This report attempts to avoid such pitfalls, and in this chapter, examines and analyzes in its proper context, each of our Federal efforts to reduce supply. It makes recommendations to encourage a coordinated, comprehensive effort at restricting the flow of drugs to the maximum extent possible, while complementary demand reduction programs take hold.

LEGALIZATION OF ILLICIT DRUGS

The debate over strategies to reduce supply has produced a wide range of proposals, including at one extreme the suggestion that currently illicit drugs be legalized. Profits in the drug trade are enormous, primarily because drugs are in high demand and because traffickers charge prices high enough to justify the risks involved. Proponents of legalization argue that because of the clear connection between illegal drug trafficking and organized crime,[1] making drugs legal would remove the enormous profits in the illicit drug industry *a priori*.[2]

On the surface, this argument appears to have some merit. However, it omits any consideration of the health costs of drug abuse to the individual and to society, a dimension this Commission views as fundamental. The drugs discussed in this report are inherently destructive to mind and body. "Legalized" drugs would still alter behavior, impair productivity and educational potential, damage vital organs, and kill. Moreover, legalization would almost certainly increase demand, and therefore spread this destruction.[3] Finally, this Commission is not persuaded that legalization would result in organized crime's abandonment of the drug business. While demand for drugs in the United States represents a significant share of global drug consumption, many other countries have a considerable demand for drugs that would continue to be met by some or the same organized crime groups now confronting this country.

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[1] *See supra* Chapter 3.

[2] The Commission is well aware of these arguments, having reviewed such sources as Arnold S. Trebach, *The Heroin Solution* (1982) and Steven Wisotsky, *Exposing the War on Cocaine: The Futility and Destructiveness of Prohibition*, 1983 Wis. L. Rev. 1305. The views of such legalization advocates as William F. Buckley, Jr., have also been considered. *See* Lofton, *Too early to toss in the drug towel?*, Wash. Times, Sept. 9, 1985, at 1D. Finally, the experience of the United Kingdom's heroin maintenance program has been examined, leading the Commission to the same view expressed in a recent British parliamentary report: that country now has a rapidly growing drug problem, particularly with heroin, that is now "the most serious peacetime threat to [British] national well-being." *Quoted in* K. DeYoung, *Britain Coming to Grips With Surge of Drug Abuse*, Wash. Post, Aug. 20, 1985, at A1. The number of narcotics addicts listed with the British Home Office more than tripled from 1978 to 1984, from approximately 4,000 to more than 12,000; British officials consider the number of addicts to be at least five times the number of addicts listed. Figures *cited in* DeYoung, *id*.

It is the position of this Commission that legalizing substances, which by their very nature destroy rather than benefit the individual and society, will not solve the problem of drug trafficking and is therefore not a viable option. This

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[3] Dr. William Pollin, former Director, National Institute of Drug Abuse, Quoted in And If Drugs Were Legal? Wash. Post, April 3, 1985. This destruction includes use of drugs by individuals with whom we entrust our health, welfare, and safety. Abuse of one drug alone, cocaine, has been shown to involve physicians, airline pilots, nuclear plant operators, military personnel, railroad switchmen, school bus drivers, prison guards, and police officers. Hearing IV: Organized Crime and Cocaine Trafficking, Before the President's Commission on Organized Crime 489 (Nov. 1984) (Statement of Dr. Arnold Washton) (hereinafter cited as November 1984 Commission Hearing on Cocaine). As to the physical and psychological harm caused by various illicit drugs, see supra, Chapter 2.

Commission is emphatic in its position that legalization of drug use is not a viable option.

NATIONAL DRUG ENFORCEMENT POLICY BOARD

The National Drug Enforcement Policy Board ("the Board"), presents a rare, possibly even unique, opportunity to bring focus and singularity of purpose to the Federal anti-drug effort. That fact is explicitly recognized in the legislation creating the Board, wherein Congress acknowledges that for the first time, a single, competent, and responsible high-level Board of the United States Government, chaired by the Attorney General, will be charged with this responsibility of coordinating United States policy with respect to national and international drug law enforcement.[4]

The sentiment is echoed by the Justice Department's own handbook discussing the National Narcotics Act of 1984, which identifies the Act as "a substantially revised version of earlier 'Drug Czar' proposals."[5]

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[4] Pub. L. No. 98-473, §1302(b)(3), 98 Stat. 1976, 2168.

[5] U.S. Department of Justice, *Handbook on the Comprehensive Crime Control Act of 1984 and other Criminal Statutes Enacted by the 98th Congress* (Dec. 1984)(hereinafter cited as *Handbook*).

This Commission recognizes and has pointed out repeatedly in this report that drug abuse, a term including all of the medical, social, and legal costs imposed on the American people by illegal drugs, is a problem of proportions unmatched in any other area of law enforcement. A problem of such dimensions demands a coordinated response by the Federal government. The creation of the Board is a major step toward a truly unified, coordinated enforcement effort.

The performance of the Board to date has been somewhat ambiguous. On the positive side, the Board has begun to meet, has adopted an effective and comprehensive membership list for its Coordinating Group, and has assembled a professional staff, composed of experienced and able agency representatives.

It is troubling to note, however, that in light of the acknowledged urgency of the drug abuse situation, characterized by Congress as an "epidemic,"[6] marked by "soaring" death rates[7] and a "key to reducing the crime epidemic confronting every region of the country,"[8] the Board has yet to assert a clear leadership role. Instead, it has adopted a more relaxed and collegial approach, waiting three months after the effective date of the Act[9] to hold its first meeting. The Board began its work with a suggestion from the Justice Department that the Board's mandate is ". . . quite broad and allows a range of possible roles -- from an essentially passive research and analysis to active implementation of drug policies."[10] This Commission notes with alarm that this contemplative expression does not even extend to policy formulation, which is the core of the Act's mandate.[11] This concern is heightened by the Board's initial choice of agenda items: " designer drugs," drug seizure statistics, and drug management.[12] These topics are certainly important, but only one, seizure statistics, would have an impact on the formulation of a coordinated drug enforcement policy. Even that connection is remote. Uniform statistics are an important step toward compilation of the reliable data base necessary to formulate policy and measure its effectiveness, but that is all they are. It is also troubling that the Board's first Interim Report to Congress consists almost entirely of a verbatim recitation of portions of the 1984 National Strategy.[13]

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[6] National Narcotics Act of 1984, Pub. L. No. 98-473, §1302(a)(4), 98 Stat. 1976, 2168.

[7] Id. at §1302(a)(6).

[8] Id. at §1302(a)(9).

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[9] January 20, 1985; cf. Pub. L. No. 98-473, §1307, 98 Stat. 1976, 2170.

[10] Handbook, supra note 5 at 181.

[11] Cf. Pub. L. No. 98-473, §§1302(a)(11), (b)(3), and 1304(a)(1), 98 Stat. 1976, 2168-69.

[12] National Drug Enforcement Policy Board, Interim Report to Congress 42-44 (July 1985)(hereinafter cited as NDEPB Interim Report).

[13] Id. at 3-34.

An urgent but rational approach to the problem of drug abuse is needed. This must begin with the statement of a goal. What is the ultimate objective of the Policy Board and of our drug enforcement effort generally? This Commission is of the opinion that the success of a national drug enforcement effort should ultimately be measured in terms of reduced usage. The poisoning of minds and bodies is the evil we are combatting. All other targets -- manufacture or cultivation, processing, smuggling, distribution, and so on -- would be of no consequence were it not for the terrible destructive force of the use of illegal drugs. Eliminating drug use, then, must be the cornerstone of a national policy, and our national operational design - our strategy - should flow from it. It is at this fundamental level that the Board's deliberations should begin, difficult as the dialogue may be.

A key to achieving the Board's essential singularity of purpose is the commitment of each Board member, on behalf of his entire Department, to the goal of reducing drug consumption, accompanied by a resolve that no opportunity for action, particularly coordinated, multi-agency approaches, will be ignored on the basis of parochial concerns.[14] However, the use of a committee in place of a single figure of authority runs the inherent risk of preserving interagency competition. It is encouraging to note that the Board has included as "potential items" for review total budgetary planning and administrative operations.[15] This Commission submits that vigorous review of the latter is urgently needed, with special attention to what is not included in such memoranda and the reasons for such omissions.

A combined and coordinated effort among the dozens of Federal agencies and offices, measured by a single standard of success, is certain to require program dislocations, reordering of Departmental priorities, and subordination of Departmental plans to Board direction. It will mean abandoning the "Not Invented Here" veto, which has far too often blocked nter-Departmental efforts. Cooperation is the heart of a truly oordinated national attack on drug abuse. It will require not ust review, analysis and coordination, but initiative by the oard to overcome unnecessary obstacles, outmoded concepts, and elf-protective agency narrowness. Success will also depend upon areful attention to long-term coordination between Federal gency operations and with State and local components, for if xperience has shown anything in the effort against drug rafficking, it is the resourcefulness and adaptability of the raffickers. Successful interdiction or enforcement in one area s virtually certain to result in a relocation to a new area of perations. Long range planning is critical if our resources are o be used in a fashion which anticipates such movement, rather han reacts to it.

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[14] The comprehensive approach advocated here, actively coordinating enforcement strategies with demand reduction planning, may be an expansion of the enforcement role the Board has identified for itself, but it is entirely consistent with the original Congressional intent which led to the Board's creation. In discussing the "office of National and International Drug Operation and Policy," which was to evolve through the legislative process to become the National Drug Enforcement Policy Board, the Senate Judiciary Committee made it clear that the intent was to create a body to:

> direct and coordinate all United States government efforts to halt the flow into, and sale and use of illegal drugs within the United States.

U.S. Code and Congressional and Administrative News, Vol. 4, 98th Congress (1984), p. 3581. See also, Senate Committee on the Judiciary, S. Rep. No. 98-278, August 4, 1983.

[15] NDEPB Interim Report, Supra note 12, at 45.

It is neither possible nor desirable under our system of law o invest a Board Chairman or any other "Czar" with dictatorial ower to command other Cabinet members to conduct the affairs of heir respective Departments in a particular fashion. This fact s reflected in the tone of the Act, which empowers the Chairman nly to "advise, recommend, correlate and evaluate"[16] and to irect action only with "the concurrence of the head of the gency" involved.[17] Such terms, intended to recognize the ndependence of the various Cabinet-level agencies, also spread

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[6]Pub. L. No. 98-473, §1304(b), 98 Stat. 1976, 2169.

[7]Id. at §1304(c)(1).

among them a common responsibility for the success or failure of this vital task.[18]

INTELLIGENCE

Accurate, timely, and complete intelligence is vital to the efficiency of United States anti-drug efforts. Strategies to reduce the supply of drugs, such as eradication, interdiction, investigations, and prosecutions are dependent on effective intelligence gathering. Less commonly acknowledged is that strategies to reduce demand are similarly dependent on such intelligence. Adequate data is the foundation upon which focused, purposeful programs to reduce demand must be built. There is substantial evidence to suggest that such a foundation is often lacking in our current approaches.

Intelligence concerning both drug abuse and drug trafficking must be shared between strategists who are working to reduce supply and demand. Evidence indicates that thorough strategic planning, whether concerned with the reduction of demand or with attacks on supply, must carefully consider the available data on the other side of the equation. For example, to achieve the most carefully reasoned deployment of resources, decisions concerning priorities for disrupting the supply of a particular drug should consider not only the geographical and political conditions in source and transit locations, but also carefully evaluate the geographic and demographic data concerning drug consumption.

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[18] See discussion *supra* at 273-280.

such coordination of data from both sides of the supply-demand dynamic is crucial to long-range planning. An awareness of traffickers' ultimate markets will facilitate anticipatory deployment of resources. This unified theory of planning is the basis for the "all source" intelligence center discussed below.

Domestic Data Collection

One principal category of drug-related intelligence is consumption and law enforcement data formally collected within the United States. Such data are essential to describe and measure the problems of drug abuse and trafficking. They are also vital to our efforts to evaluate the effects of various efforts to reduce the supply of and demand for drugs.[19] The reliability of these estimates is critical for both policymakers and drug law enforcement officials. However, because drug trafficking and use are illicit activities, data concerning them are necessarily estimates. Compounding this problem is the fragmentation of the current system of drug data gathering. Much greater coordination is imperative.[20]

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[19] See Mark Kleiman, Data and Analysis Requirements for Policy Toward Drug Enforcement and Organized Crime, (paper prepared for the President's Commission on Organized Crime, Nov. 1985) (Appendix G).

Two primary ongoing studies are used to measure the number of drug users and frequency of drug abuse in the United States: the bi-annual Household Survey of Drug Abuse and the annual High School Senior Survey, both sponsored by the National Institute on Drug Abuse (NIDA). The Household survey sample includes 5,000 people 12 years of age or older, living in households across the country.[21] The High School Senior survey questions approximately 17,000 high school seniors.[22] These surveys have been criticized because they do not include information from those populations that are frequently involved with drugs, high school dropouts and people without residences.[23] To compensate for this deficiency, it has been proposed that these surveys oversample groups thought to be heavy users of drugs.[24]

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[20] According to the House Select Committee on Narcotics Abuse and Control:

> The Federal Government must take the steps needed to establish a comprehensive, national drug abuse information system. Information on the nature and extent of drug abuse, changing drug abuse trends, and the availability and use of drug abuse services is vital in order for policymakers at all levels of government to make informed judgements on the needs that exists and how best to meet those needs.

House Select Comm. on Narcotics Abuse and Control, Annual Report for the Year 1984, H.R. Rep. No. 1199, 98th Cong., 2d Sess. 46 (Jan. 3, 1985) (hereinafter cited as 1984 Annual Report).

[21] Kleiman, supra note 19.

[22] U.S. Department of Health and Human Services, Press Release (January 7, 1985).

[23] Kleiman, supra note 19, at 21-38.

While these surveys provide estimates of the extent of drug abuse, they do not gather important data, such as the price and quantity of drugs purchased. Such information is crucial for effective organized crime and drug enforcement policy planning, because it would provide information concerning the effects of certain enforcement actions on drug purchasing/using behavior.[25] NIDA should amend these surveys to include questions about drug purchases. To the extent possible, they should also be designed to determine the sources of the funds used to finance drug purchases. Such data may be crucial to effective prevention education planning.

NIDA provides two additional data bases of drug use in this area. The Drug Abuse Warning Network (DAWN) collects data concerning drug-related emergency room visits and deaths. These statistics are based on reports gathered by NIDA from one-sixth of the country's emergency rooms and two-thirds of the medical examiners' offices.[26] NIDA collects information about drug users in treatment through the Client Oriented Data Acquisition Process (CODAP). Formerly, all States were required to provide such data as a condition of Federal assistance. However, since the institution of block grants to partially fund State drug programs in 1982, the Federal government has not been able to compel participation in CODAP,[27] and the number of participating States has shrunk to approximately 15.[28] Because of the importance of this treatment data, the Federal government should again require participation in CODAP.

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[24] Id. Oversampling is a technique sometimes used in survey research in which the sample population is biased to include people with certain known characteristics. In fact, the current Household Survey is oversampling certain minority populations. Information provided to the President's Commission on Organized Crime by the National Institute on Drug Abuse, telephone interview, November 1985.

[25] Id.

Much data concerning drug trafficking is gathered by the 11-member National Narcotics Intelligence Consumer Committee (NNICC) and reported annually in the Narcotics Intelligence Estimates (NIE).[29] This data includes estimates of the amount of drugs produced and entering the United States, trafficking patterns, and prices and purity of drugs. Although the NIE claims to be "the most comprehensive assessment prepared for the Federal Government on the worldwide illicit drug situation in 1984," the report also states that, "[b]ecause of gaps in some of the data used to derive the estimates, there is a high degree of uncertainty to the resulting estimates."[30]

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[26] Id. The methodology used to estimate the number of drug-related emergency room visits changed in 1984. National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate 1984, at i (hereinafter cited as 1984 Narcotics Estimate). These figures are based on a Consistent Panel of those facilities reporting at least 90 percent during each year. While figures for 1981-1983 have been revised on this basis, earlier figures have not and thus cannot be compared with post-1980 figures.

[27] "The National Institute on Drug Abuse (NIDA) has attempted to collect this information from the States on a voluntary basis, but many States that are already hard pressed by funding cuts are unwilling or unable to participate without Federal assistance." 1984 Annual Report, supra note 20. See supra 261-263 for a discussion of block grants.

[28] Kleiman, supra note 19.

[29] See discussion supra at 305 for a more detailed treatment of NNICC.

In 1983 NNICC prepared a report analyzing the methodologies used in preparing drug estimates. The report concluded that NNICC estimates are not timely, with estimates generally 18-30 months out of date; there is insufficient data concerning the price and potency of drugs, in part because of inadequate input from State and local sources; and estimates of the total retail value of drugs is an imprecise measure, which should be replaced by a better measurement of final drug sales.[31] In addition, NNICC's methodology has been critized as "analysis by negotiation," with final estimates resulting from a bargaining process among the member agencies.[32] Complaints about the reliability of NIE data also result from the fact that NNICC does not publish the background data used to develop the estimates.[33]

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[30] 1984 Narcotics Estimate, supra note 26, at i.

[31] National Narcotics Intelligence Consumers Committee, An Evaluation of the Methodologies for Producing Narcotics Intelligence Estimates (August 1983).

[32] Kleiman, supra note 19.

Another important set of data in the drug field is the estimate of the results of drug law enforcement, including the amount of drugs and property seized, and the numbers of arrests and convictions and sentences imposed on drug violators. A significant problem in generating reliable statistics in this area is the lack of a centralized system for collection. Because many agencies often are involved in the same case, the amount of drugs seized and other information may be reported by each agency. According to the National Drug enforcement Policy Board,

> One of the principal problems encountered by the Federal Government in its efforts to gauge the effectiveness of its overall drug law enforcement program has been the lack of centralized statistical information on Federal drug seizures . . . Because of an undetermined amount of double and triple counting, reliable statistics on total Federal drug seizures are not available.[34]

In apparent response to this problem the 1984 National Strategy called on the Drug Enforcement Administration to develop and maintain a centralized system for statistics concerning Federal drug seizures.[35]

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[33] Id. at 59. Kleiman argues that the figures for source country drug production are "hard to distinguish from guesswork" and that the amount of each country's drugs entering the United States is "fundamentally unknown." According to Kleiman:

> In general . . . it is hard to place much confidence in the NIE numbers, particularly because they are presented as a just set of conclusions, without any detailed presentation of the underlying data or the calculations performed on that data.

[34] NDEPB Interim Report, supra note 12, at 43.

As discussed throughout this report,[36] asset forfeiture programs are an extremely promising source of funding for anti-drug efforts. Unfortunately, the availability and reliability of information about non-drug assets seized by all levels of government is hampered by the same double counting, decentralization, and inconsistent data gathering methodologies described above. Although the Department of Justice Asset Forfeiture Office was created to maintain centralized information on forfeited assets, the office is still in the process of developing statistics for total Federal assets forfeited.[37] A study of State and local officials found that more than one-half of those surveyed could not estimate the value of property and cash obtained through forfeiture.[38] State and local governments which have not already done so should establish asset management systems for the disposition of forfeited assets to provide accurate estimates of their value.

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[35] White House Drug Abuse Policy Office, 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking 61 (hereinafter cited as 1984 National Strategy). According to the Drug Enforcement Administration, this system will be implemented on October 1, 1986. Currently DEA uses the System to Retrieve Information from Drug Evidence (STRIDE) to gather information about drug purchases and seizures. Because this information focuses on the wholesale level, "very little information is collected that pertains to retail or street level activities." Memorandum from the Drug Enforcement Administration to the President's Commission on Organized Crime (Aug. 1985).

[36] See e.g. infra at 393-394.

[37] Telephone interview of employee of the Department of Justice Asset Forfeiture Funds Office, (Nov. 1985).

Drug Supply Intelligence

With regard to intelligence concerning drug supplies, this Commission is encouraged by what appears to be a growing commitment to effective information-gathering. A number of agencies have reported confidentially to this Commission that both their funding and priority determinations are giving greater weight to effective intelligence programs.

Intelligence efforts in this area take different forms, depending on the topic to which they are directed. All are subject to the two classic categories of information gathering: human intelligence, referring to data gathered from human informants, and technical collection, gathered by such means as surveillance flights and satellites. In the area of crop eradication, the lead agency is the State Department's Bureau of International Narcotics Matters, supported by other members of our country teams. Issues here include crop conditions, host country political and military capabilities, and the role, if any, of groups, including insurgents, opposing eradication efforts.

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[38] Lindsey D. Stellwagen, Use of Forfeiture Sanctions in Drug Cases (paper prepared under contract by Abt Associates Inc. for the National Institute of Justice, July 1985).

Interdiction efforts require tactical intelligence concerning specific drug movements, such as the identities of those involved, shipment techniques, vessel and aircraft identification, routes, and schedules. Also required is "strategic" information, such as shifts in processing and staging locations or in transshipment techniques. The current exclusion of the Customs Service from foreign intelligence gathering, mandated by the 1973 reorganization plan, particularly needs to be re-examined. Strategic and tactical intelligence are critical for border interdiction. Therefore the Commission proposes that the Customs Service be integrated into the foreign intelligence process of the Drug Enforcement Administration, to the maximum extent permitted by the Reorganization Plan currently in effect.[39]

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[39] See infra at 347-349. In addition, it is encouraging to note that a recent Drug Enforcement Administration report on its operations advises that one of the "key initiatives" of the agency's Office of Intelligence is to "provide tactical and operational intelligence products and services which identify the structure and members of international. . .drug trafficking organizations [and] prepare strategic intelligence assessments. . .focusing on trafficking patterns" for use by "enforcement counterparts" in achieving "optimum support to domestic and international drug enforcement operations." John C. Lawn, Drug Enforcement Administration 9 (an undated report provided to this Commission in December 1985) (hereinafter cited as Drug Enforcement Administration Report).

Because international drug trafficking organizations frequently locate components of their operations within U.S. borders, domestic investigations and prosecutions are often dependent upon effective international intelligence gathering to supplement such domestic techniques[40] as legal electronic surveillance and development of informants.

Effective international intelligence collection and dissemination is not necessarily a highly sophisticated process. On the contrary, it can consist of information as simple as providing the names of suspected traffickers known to the Drug Enforcement Administration to the State Department to ensure that consular officers do not issue U.S. visas to such persons, or that issuance be on a controlled basis to assist the investigative work of DEA.[41] It is encouraging that the National Drug Enforcement Policy Board, pursuant to the Foreign Relations Authorization Act for 1986 and 1987,[42] has been directed to compile a list of such traffickers and prepare guidelines for inter-agency sharing of that information.

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[40] Electronic surveillance is a leading example of vital domestic intelligence gathering. The fact that more than a decade after Federal legislation provided this crucial tool to law enforcement, 21 States have yet to pass similar measures of their own is a disgrace. These States are Alabama, Alaska, Arkansas, California, Illinois, Indiana, Iowa, Kentucky, Maine, Michigan, Mississippi, Missouri, Montana, North Carolina, North Dakota, Ohio, South Carolina, Tennessee, Vermont, West Virginia, and Wyoming. Electronic surveillance statutes of some States, such as Louisiana, are so narrowly constructed that they are of limited use.

In the area of more sophisticated drug-related intelligence work DEA and the intelligence community are currently playing leading roles. The former has recently expanded its foreign detail by ten percent, and additional expansion is prevented by lack of funding.[43] This matter deserves careful consideration by both Congress and the Executive Branch. In addition, the capabilities of DEA agents presently stationed in foreign locations are unduly and unnecessarily hampered by the "Mansfield

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[41] The pertinent statute, 8 U.S.C. §1182(a)(23), provides that a visa may be denied when the consular official has "reason to believe" the applicant is involved in drug trafficking. This Commission believes that notification by the DEA of its suspicion of a particular individual, without further corroboration, should be grounds for such denial, and that technical means for such notification to consular officials should be pursued vigorously. The Commission recognizes that such a system is vulnerable to abuse. For that reason, Commissioner Charles Rogovin would require a mechanism to ensure proper use of discretion, such as review by an immediate DEA supervisor of the basis for a transmittal to a consular officer.

[42] Pub. L. No. 99-93 (Aug. 11, 1985).

[43] David Westrate, Assistant Administrator for operations, Drug Enforcement Administration, Statement made in Executive Session during Drug Interdiction Symposium of the President's Commission on Organized Crime 28 (Oct. 7, 1985)(hereinafter cited as Westrate Statement). Confidential sources have suggested that a second obstacle to expanded DEA foreign operations is the reluctance of our Ambassadors to permit them. To the extent this is so, it deserves the attention of the Department of State.

Amendment" to the Foreign Assistance Act of 1961,[44] which restricts their activities to a secondary role. As part of a new expression of determination to combat international drug trafficking, the amendment should be repealed.

The intelligence community is not burdened by any such ill-conceived restriction. On the contrary, with regard to international narcotics trafficking, its mandate, found in Executive Order 12333,[45] is clear, direct, and sweeping:

> 1.4 The Intelligence Community. The agencies within the Intelligence Community shall, in

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[44] 22 U.S.C. §2291(c)(1), which provides in pertinent part that:

> no officer or employee of the United States may engage or participate in any direct police arrest action in any foreign country with respect to narcotics control efforts. No such officer or employee may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

The amended statute was modified in the International Security and Development Cooperation Act of 1985 (Pub. L. 99-83) to permit the presence of U.S. personnel during "arrest actions" in foreign countries when the host country and the U.S. Department of State so agree and the agreement has been reported to Congress. While intended to loosen the strictures of the original wording, this 1985 language may actually have the contrary effect, in that it would require a foreign sovereign to acknowledge to the U.S. Congress cooperation which it might prefer or require to be kept confidential. Thus, even as presently modified, this statute hampers not only intelligence gathering, but other significant aspects of the foreign role of DEA agents and other American representatives.

[45] 46 Fed. Reg. 59,941 (Dec. 14, 1981). See Appendix F for full text.

> accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:
>
> (c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents.

Although the Central Intelligence Agency (CIA) has in the st been criticized for failing to give sufficient priority to ug trafficking,[46] the Commission is satisfied that the agency currently placing suitable emphasis on the issue.[47] This is e, in part, to the necessary Executive direction now being ven to the intelligence community, and in part to the growing cognition throughout the government that drug trafficking in ny forms and in many locations has grown to become a national curity concern, transcending the traditional drug-related alth and law enforcement concerns, as discussed in this

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See, *e.g.*, House Committee on Foreign Relations, *U.S. Narcotics ntrol Program Overseas: An Assessment*, 99th Con., 1st Sess. 4 eb. 22, 1985). The Commission is well aware that beyond such iticisms, the Central Intelligence Agency has been accused of least dependent relationships with certain drug traffickers in e past. *See e.g.*, A.W. McCoy, with C.B. Read and L.P. Adams, *e Politics of Heroin in Southeast Asia* (New York: Harper & w, 1972). However, the analysis and recommendations found here e based on a presumption of lawful Agency conduct in conformity th Executive Order 12333 and other applicable standards.

The basis for this conclusion is an entirely reliable one. It , however, classified and will not be discussed further here.

report.[48] To complement this effort, additional options are available and should be pursued.

First, consistent with the direction now being provided to the intelligence community, the Department of State should vigorously pursue a program of educating its own foreign-based personnel to the importance being given to drug-related intelligence and to the critical need for State Department support for such efforts. This appears to have been less than entirely adequate in all instances.[49] Second, the CIA's operational capabilities should be fully explored to determine how the infrastructure of drug trafficking organizations can be disrupted, consistent with the concerns expressed in Executive Order 12333 and elsewhere. Finally, the CIA's considerable research and development capabilities should be used to develop additional means for furthering efforts directed at international drug traffickers.

In connection with these contributions by the intelligence community, it is encouraging to note the rapid evolution of a cooperative relationship between the intelligence and law enforcement communities. This is evidenced by the pertinent language of Executive Order 12333, which provides that:

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[48] See supra at 138-155, and infra at 359-365. For a full and concise account of the reasoning behind this position, see Mark S. Steinitz, Insurgents, Terrorists and the Drug Trade, Washington Quarterly (Fall 1985).

[49] Paul F. Gorman, Gen., U.S. Army (ret.) and former Commanding General, SOUTHCOM, testimony given in Executive Session during Drug Interdiction Symposium of the President's Commission on Organized Crime, 21-22 (Oct. 27, 1985)(hereinafter cited as Gorman testimony). The General's remarks are corroborated by additional information available to the Commission, classification of which prevents disclosure here.

> 1.7 Senior Officials of the Intelligence Community. The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate, shall:
>
> (g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking.

This direction is complemented by the inclusion of a representative of the CIA on the Coordinating Group of the National Drug Enforcement Policy Board.[50]

Defense Capabilities

The intelligence community is not the only available source of drug-related intelligence. The Department of Defense has a wide range of facilities, equipment, and operations, which lend themselves to effective participation. Although such a role is most frequently discussed in connection with interdiction operations near the U.S. border,[51] intelligence-gathering opportunities for Defense Department components exist much farther afield. Like their counterparts in the interdiction area, such efforts may be subject to Defense Department directives and priorities, which in turn rely on a changeable definition of "national security." Nevertheless, if as a matter of national policy, the military view of national security draws closer to that of the intelligence community, as expressed in Executive Order 12333,[52] the potential for military drug-related intelligence-gathering is profound. Because of the connection between some drug trafficking organizations and terrorist or insurgent groups, whatever assets are currently in place or in planning for intelligence-gathering regarding terrorism or insurgency could just as well function in connection with drug traffickers.

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[50] See supra at 273-280.

Intelligence-gathering in source and transshipment countries would be particularly effective in the interdiction effort, in the opinion of former SOUTHCOM Commanding General Paul F. Gorman:

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[51] *See infra* at 359-365.

[52] In this regard, it is particularly noteworthy that section 1.4(c) of Executive Order 12333 directs intelligence activity toward ". . . international narcotics activities, *and other* hostile activities directed against the United States . . . ." (emphasis added). Thus, the intelligence community has already incorporated international drug trafficking into its definition of "hostile activities." There is no apparent reason why the military definition of that term cannot be similarly flexible, although this Commission notes that there is as yet no judicial review of the appropriateness of the reading given here to Executive Order 12333, nor of its applicability to military activities.

> I can't stress enough that it seems to me that the easy way to operate on the [drug smuggling] pilots is down at the other end. He is at the other end of his communications tether where the airfields are much more primitive, where he is dependent on these cartels and it's easier to penetrate.[53]

Because they occur outside of U.S. territory, such operations would not violate the Posse Comitatus Act.[54] In addition, with an expanded definition of national security, such as that manifest in Executive Order 12333, the Economy Act[55] would not be an obstacle. Such an expanded intelligence-gathering role is a desirable course of action for the Department of Defense. The Commanding Officers of Unified Commands should be given maximum flexibility in deploying their forces.

Another change in our application of military assets to drug-related intelligence is much less sweeping in concept, but nevertheless appears very useful. That is the inclusion of Coast Guard officers in our Defense Attache programs in drug source and transit countries. This Commission has been advised that such a program is in process and encourages the agencies involved to pursue this program with all due speed.

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[53] Gorman testimony, supra note 49.

[54] 18 U.S.C. §1385. See infra at 359-360.

[55] 31 U.S.C. §1535. See infra at 360.

Allied governments in affected areas could significantly enhance the intelligence operations of our own military units. Such activities already under way and worthy of note include a regional radio communications network being set up among the drug enforcement authorities of Bolivia, Colombia, Ecuador, Peru, and Venezuela. This network is designed to give these countries the opportunity to coordinate drug enforcement strategies and work closely together in confronting the drug trafficking threat common to all.[56] Agreements signed very recently by Brazil,

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[56] Drug Enforcement Administration Report, supra note at 39.

More dramatic forms of host country operations have been proposed. An example is a proposal by former SOUTHCOM Commanding General Gorman before the Commission:

> . . . my experience would tell me that the iron is hot and if we could move in we could get a lot done with the expenditures of relatively small amounts of money. Now, what am I talking about?
>
> Well, I'm talking about, among other things, airborne radar. I'm not supposing that we sell E-2-As to Ecuador and I'm not proposing that we let Hawkeyes into the Security Assistance program.
>
> I'm proposing that we take an airborne radar - let us say, of the F-16 variety - and sell it to them along with a tech package that would permit them to hang that on one of their aircraft, which we can show them how to do relatively easy.
>
> But I know personally that the President of Ecuador and the commander of his air force are prepared to go over there on the east side of the Andes and shoot down aircraft transiting Ecuadorian air space from Peru into Colombia, which are a crucial part of this chain which you heard described here today.
>
> I wouldn't take many of those shoot-downs to act as a very powerful deterrent. . .

Venezuela, and Colombia allow these countries to initiate joint investigations on their common borders, call for periodic meetings between drug enforcement police, exchange intelligence, and solve common problems.[57] Although such efforts must contend with the endemic problems of corruption and organizational and national rivalries, they are a step in the right direction. To the extent that United States assistance can contribute to the elimination of corruption and other systemic problems, such assistance should be provided to promote these programs.

All Source Intelligence and Operations Center

Data collection is but one phase of a complete intelligence operation. To be effective collection should be followed by thorough and timely analysis and dissemination. This Commission therefore concludes that this Nation's anti-drug intelligence efforts should be built upon an all-source intelligence and operations center. Such a concept is described briefly above in connection with interdiction efforts.[58] EPIC and NNBIS together provide an existing core upon which such a center could

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Gorman testimony, *supra* note 49. This proposal is offered as a suggestion of the range of possibilities extant in an imaginative and resourceful campaign against drug traffickers.

[57] *Drug Enforcement Administration Report*, *supra* note 39, at 21.

[58] *See infra* at 356-359.

be built. EPIC has demonstrated the feasibility of joint agency operations,[59] and NNBIS has shown that interagency operational coordination, particularly involving military components, is well within capabilities.

As a component of a comprehensive intelligence program, such a center should be designed to collect drug-related intelligence from the broadest base possible, including those sovereign nations that will provide consistent, timely data on a cooperative basis. In this regard, it is encouraging to note that Latin American drug enforcement agencies are reported to be planning to establish a regional intelligence center in a strategic location, such as Panama, in the near future.[60] Because analysis should be as complete as possible, such a center should include not only supply and transit-related intelligence, but also counterpart demand data, including information on such topics as drug-related deaths and emergency room admissions. This will allow a complete picture of drug distribution from one end of the chain to the other. This center would assume the functions, including issuing annual reports, currently undertaken by the National Narcotics Intelligence Consumer Committee (NNICC). In addition, it should integrate all financial data currently available to agencies of the Federal government, to enable analysts to complete their knowledge about the drug-money cycle whenever possible.[61]

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[59] As described above (see supra at 301-302), EPIC is staffed by a consortium of Federal agencies, and employs a variety of Federal data systems, including Pathfinder (DEA), NADDIS (Narcotics and Dangerous Drugs Information System, maintained by DEA), TECS (Treasury Enforcement Communications System), NCIC (National Criminal Information System, an FBI data base), NLETS (National Law Enforcement Teletype System, maintained by a private corporation), ICS (Integrated Combined Systems, providing information on false claims of U.S. citizenship and data on private aircraft arrivals from foreign countries), and MIRAC (Master Index Remote Access, a data base of the Immigration and Naturalization Service).

[60] Drug use 'epidemic' imperils the nation -- Meese, Wash. Times, June 28, 1985, at 3A.

To be consistent with the rest of our national effort, such a center should be under the general direction of the Policy Board or its delegate, with the Vice President retaining primary responsibility for management and coordination of the information related specifically to interdiction.[62] Such a facility would thus coordinate the collection, analysis, and dissemination of intelligence, covering every topic from production and cultivation (including related political issues) to domestic enforcement and detailed patterns of domestic consumption. It would also provide the necessary centralized data base for thorough inter-agency coordination of operations. Given the sensitivity of many of its sources and the data received therefrom, the functions and output of such a center would, of course, require physical and communications security. The resources and expertise of the National Security Agency with regard to operational and communications security is an extremely valuable national asset, which should be exploited to the fullest extent possible in this connection. As this Commission has sought to demonstrate repeatedly,[63] drug traffickers have regularly and successfully sought to penetrate law enforcement communications. The equipment available for such purposes is readily available. Communications security thus requires very careful attention in the planning and design of all anti-drug operations and facilities.

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[61] Financial data and investigations based thereon are a critical component of an attack on drug trafficking. Indeed, such an approach has been one of the most successful in recent years. It is not developed in this report, as it is the subject of a separate volume (*The Cash Connection*: *Organized Crime, Financial Institutions, and Money Laundering* (October 1984)). The topic will also be developed further in the Commission's final report. Its absence from this volume only reflects its treatment as a separate area of inquiry, not any lack of appreciation for its significance to anti-drug efforts generally.

[62] It is most encouraging that the Policy Board has announced that it already has under review precisely the sort of comprehensive facility advocated here. *See* Statement of D. Lowell Jensen, Deputy Attorney General, before House Subcommittee on Government Information, Justice and Agriculture, October 24, 1985.

INTERDICTION

Introduction

Our National Strategy consists of five "major elements,"[64] each of which in turn is comprised of numerous programs and strategies. Interdiction, just one of these sub-components, presently consumes one-third of the entire Federal drug abuse outlay for the fiscal year. Measured just in terms of outlays designated for law enforcement activities, interdiction's portion swells to almost one-half of the Federal funds being spent to combat drug abuse.[65] By Commission calculation, Federal funds devoted to interdiction have increased 100 percent over the last five years.

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[63] *Hearing IV: Organized Crime and Cocaine Trafficking, before the President's Commission on Organized Crime* 247-49, 634-35 (Nov. 1984)(hereinafter cited as *Cocaine Trafficking Hearing*); Adler B. Seal, Testimony given during *Drug Interdiction Symposium of Presicent's Commission on Organized Crime* 18-19, 25-37 (Oct. 7, 1985)(hereinafter cited as Seal Testimony).

[64] *1984 National Strategy*, *supra* note 35, at 7.

Despite this massive dedication of funds, drugs of primarily foreign origin - cocaine, heroin, and marijuana - continue to be widely available in this country. Many observers, including some leading drug enforcement officials, readily acknowledge that interdiction can only serve a limited role in increasing risks to smugglers while this government pursues other programs. Frank Monastero, former Assistant Administrator for Operations of the Drug Enforcement Administration, summed up this view in a recent interview:

> [Interdiction] is important, but it is the least effective thing you can do . . . it's like the patrolman on the beat . . . It is preventing [some drugs] from getting into the trafficking, and that's something. But we can continue that ad infinitum. If we don't do something at the source or don't do

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[65] Interdiction currently accounts for approximately $649 million, or 32.3 percent of the total of $1.7 billion in Federal drug abuse outlays for FY86. Of those funds specifically allocated to law enforcement, a total of $1.4 billion, interdiction's $649 million is 46 percent. Drug Abuse Policy Office, Federal Drug Abuse Budget Summary, 1985, (included as Appendix D to this Report).

> something before that or don't do something at the end of the trail in the prevention area, we will never change the situation.[66]

It is the view of this Commission that interdiction is not going to end drug use or availability in this country. It will, however, continue to discourage some potential smugglers. This deterrent effect is often overlooked or denied by many critics[67], but not by smugglers themselves. According to Adler B. Seal, an experienced drug smuggling pilot, in response to a question concerning the difficulty of recruiting smuggling pilots:

> Well, it used to be easy. However, now it has become a little less attractive for some of the younger pilots. Some of the older pilots, as myself, have been indicted.
>
> We've been cognizant of law enforcement techniques and the improvements in it; and the younger pilots are seeing the newspaper reports of the older pilots and the amount of time that they are being convicted on and

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[66] "Cocaine: Hitting Home," a Public Broadcasting System program aired October 14, 1985. Mr. Monastero is in good company in this view. Then Attorney General William French Smith expressed essentially the same opinion in an interview with the New York Times, saying that drug traffickers "are always going to find a way to supply the market, some way, somehow". A World of Drugs, N.Y. Times, Sept. 14, 1984, at A1.

[67] Such critics generally base their views on the physical scope of the undertaking. It is argued that with 250 million entries into the United States each year, and a 26,000 mile border to protect, interdiction, particularly of high cost, low bulk commodities like heroin and cocaine, is not a realistic strategy. The Commission expressly rejects this argument. As demonstrated in this report, progress is being made, notwithstanding the enormity of the assignment.

> serving, and it's not as attractive a proposition as it used to be.[68]

Successful interdiction not only discourages some new members from joining smuggling enterprises, but also encourages some already in the field to get out of it. This was confirmed by the firsthand experience of smuggler Seal:

> . . . I think that the more flights that are interdicted, the word gets around.
>
> For instance, I have absolutely -- or had in my capacity -- no desire whatsoever to go into and would do anything to stay out of the south Florida area simply due to the fact that that is where the concentrated interdiction efforts are being made due to the Vice Presidential Task Force, which has been highly publicized and which has taken its toll on the paranoia of the drug smuggler.[69]

It also appears to this Commission to be consistent with the view of the Commissioner of Customs, William von Raab:

> We are always asked what is a good measure of success against smuggling. It is always quoted in terms of how much we seize.
>
> I have always maintained that a good measure of success is to reach a point at which a pilot doesn't want to fly into the United States anymore; and I have always suggested that there may be a percentage.
>
> For example, if he has a one-out-of-ten chance of getting caught, he might run in; but certainly if he

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[68] Seal Testimony, supra note 63, at 38.

[69] Id. at 64-65.

> had a nine-out-of-ten chance of being caught, he's not going to do it.[70]

In summary, this Commission recognizes that interdiction is and should continue to be a vital component of our National Strategy, as a complement to other approaches to reduce drug supply. Any analysis that defines success in the area of interdiction as apprehending all, or nearly all, smuggled drugs is unrealistic and counter-productive.[71] To the extent that is a very costly approach, additional expenditures must be weighed very carefully, particularly if they have the effect of reducing funds available for other efforts to reduce supply and demand. There are, however, improvements to our interdiction efforts which can be made without any significant increase in funding. These steps, which generally involve reordering of priorities or redefinition of interagency responsibilities, are discussed below.

It is crucial to note that the single most important need in the interdiction field is leadership. If innovation and increased commitment are to be pursued successfully and expeditiously, both by foreign governments and agencies of our own, a strong leader orchestrating a single comprehensive plan is the key. That role to date has been played by the Vice President, and it is one in which he should continue. The weight of his office has produced results when other officials might have been ignored. While the National Drug Enforcement Policy Board necessarily includes several Cabinet-level officers, they serve as peers. Only the Vice President brings to the interdiction effort sufficient rank to lead them. His central role should be preserved and promoted within the context of the National Drug Enforcement Policy Board's leadership in drug enforcement. Recognition by the Board of the Vice President's leadership in interdiction activities holds the promise of singularly promoting success in that key area, preserving the momentum and continuity of existing inter-agency interdiction efforts, and putting to rest the confusion that has already begun to surface concerning the Vice President's relationship to the Board.[72]

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[70] _Id_. at 63-64.

[71] _See_, _e.g_. Statement of Congressman Charles B. Rangel, Chairman of the House Select Committee on Narcotic Abuse and Control before the Gulf Coast Governors' Conference on Drug Trafficking, January 17, 1985, at 9. The practice of isolating a single component of a complex strategy and declaring it a "failure" in terms of some arbitrary goal is a regular occurrence in the debate over drug strategies and is at the heart of the unfortunate tendency to shift impatiently from tactic to tactic,which has marked the campaign against drug abuse for decades. _See_ _supra_ Chapter IV of this report.

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[72] See, e.g., United States General Accounting Office. Coordination of Federal Drug Interdiction Efforts (Report No. GGD-85-67).

Air Interdiction

The United States Customs Service has the lead responsibility for air interdiction. To combat drug smugglers, some of whom have the most sophisticated and expensive communications[73] and navigational equipment available today[74], Customs has increased its airborne capabilities significantly in the recent past. At the time of this report, the Service had just received $11 million in a supplemental fiscal year 1985 appropriation for its air operations, bringing the agency's total fiscal year budget for air operations to $55.4 million. Customs' most significant need, apart from more aircraft and more sophisticated electronics, is the support of other Federal agencies with related jurisdictions.

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[73] Such capabilities include satellite communication, advanced encryption devices, and state of the art radio equipment. Peter Almond, Latin dealers route cocaine through Spain, Wash. Times, March 26, 1985, at 1A. Such equipment was displayed and demonstrated before this Commission and agency heads of various Federal enforcement offices in the course of our investigation. Seal Testimony, *supra* note 63, at 18-19.

[74] Consider the testimony of convicted smuggler Seal concerning the quality of his navigational equipment:

> I have also outfitted my smuggling aircraft with the most sophisticated of equipment -- Loran C, VLF, Omega, long-rang navigation equipment, radar altimeters, beacon-interrogating digital radar, communications scramblers, digital communication equipment for position tracking. I don't believe there is any paramilitary group better equipped than my former associates.

Seal Testimony, *supra* note 63, at 19.

One example of the need for support is on the diplomatic front. Customs has for some time found itself frustrated by its inability to pursue suspected smuggler aircraft into Mexican airspace after detection on the American side of the border.[75] Although this has been the subject of numerous diplomatic discussions, there has been little progress to date. Giving this matter an extremely high priority in our bilateral negotiations with Mexico is the type of assistance another agency, in this case the State Department, can and should provide to Customs in recognition of the critical importance of the fight against drug smuggling.

Another Customs' Services critical need is intelligence, both tactical and strategic. While "cold hits" - apprehension of smugglers in a random, uninformed basis - have an important role to play in deterring smugglers by their very randomness, intelligence is the key to effective interdiction. According to former Drug Enforcement Administrator Francis Mullen, every major seizure of drugs from South America made by his agency has been made on the basis of prior intelligence,[76] and it is no less critical to the Customs Service. While the topic of intelligence-gathering is the subject of a separate analysis in this report, it is important to note in connection with this discussion on inter-agency support that Customs and the Drug Enforcement Administration have made considerable progress in the area of information sharing. Customs has for some time had an analyst stationed in DEA's Office of Intelligence, and a program is currently underway to place Customs intelligence analysts in country teams abroad to analyze data gathered by DEA. This program should be pursued aggressively. Simultaneously, the Customs Service should scrutinize its Customs Attache program to determine to what extent it can play a larger role in intelligence-gathering concerning smugglers. With its close liaison with host government customs officials, this program may be of particular significance with regard to smuggling involving containerized and other commercial cargo. As interdiction capabilities improve in the areas of pleasure craft and general aviation, it is almost certain that commercial cargo will be used increasingly for concealing illicit drug shipments. This has already been observed in some cases.[77] Such a Customs effort would be complemented by the private sector initiatives Customs has been able to bring about, such as the agreements now in effect with the

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[75] This is but one example of the severe difficulties we continue to experience with the Government of Mexico. See supra at 111-113; 123-126; 156-159.

[76] Francis Mullen, former Administrator of the Drug Enforcement Agency, Statement made in Drug Interdiction Symposium of the President's Commission on Organized Crime (Oct. 7, 1985).

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[77] Hearing V: Organized Crime and Heroin Trafficking, before the President's Commission on Organized Crime 133-140 (Feb. 1985) (hereinafter cited as Heroin Trafficking Hearing).

Airline Transport and International Airline Transport Associations.[78]

An active intelligence gathering role for Customs is now blocked by the 1973 Reorganization Plan.[79] The current recognition by Customs and DEA of the former's need for time-sensitive intelligence is of vital importance however, and should be actively cultivated by the two agencies and the Policy Board. That this would require modification or elimination of certain provisions of the 1973 Reorganization Plan should not be an obstacle.

The area of inter-agency support currently in need of the most attention is the relationship between the Customs Service and the Federal Aviation Administration (FAA). The latter, which has primary jurisdiction over entry into United States air space, maintains a number of programs, which lend themselves to support of Customs operations. While the FAA has to date given significant support to

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[78] "A Program of Cooperation and Assistance Between the U.S. Customs Service and the Air Transport Association of America to Deter Narcotics Smuggling Via Commercial Aircraft" (March 28, 1985) (available from the U.S. Customs Service); "Industry Guidelines on the Prevention of Narcotics Smuggling" (November 28, 1984) (available from the International Airline Transport Association). Very recent developments demonstrate that there is a great deal more to be done in this area. For example, despite its corporate commitment to self-policing, Eastern Airlines is once again in the news because of alleged employee involvement in drug trafficking. Airline Baggage Handlers Under Drug Investigation, Washington Post, February 13, 1986, p. A7.

[79] *See supra* at 215-222 and Appendix C.

Customs in a number of instances,[80] more is needed. To this end, the Customs Service has recently proposed omnibus legislation, currently entitled the Customs Enforcement Act of 1985, which contains provisions that address such sensitive topics as restricted entry points and minimum altitudes for air entry. Among other things, this Act would require all vessels and aircraft entering the United States to report immediately for Customs inspection, and would increase the fines for failure to report entry. Fines would also be substantially increased for smuggling controlled substances, and such violations would be punishable by imprisonment. All assets seized by Customs, including planes, vessels, and cash, would be subject to forfeiture. The Act would prohibit airdrops to vessels, make it unlawful to operate an aircraft without lights, and prohibit the installation of all illegal fuel tanks in planes.[81] In addition, commercial carriers would be subject to more stringent regulations under the Act. While this legislation may be unpopular with private aviation, it is a collection of important anti-smuggling measures which go directly to some of the most frequently encountered drug smuggling techniques. It is worthy of support.

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[80] An example of such support is the data base support provided by FAA to Customs' South Florida command control center in Miami. Cocaine Trafficking Hearing, supra note 63, at 277. FAA also provides staff to EPIC, primarily to maintain suspect and stolen aircraft lookout. In addition, the Administrator of FAA is empowered to revoke aircraft and airman certification following exhaustion of appeal in certain drug cases. Letter from FAA Administrator to President's Commission on Organized Crime, February 7, 1986.

Similarly, proposals advanced by both Customs and DEA that aircraft identification numbers, now required to be twelve inches high and displayed on the fuselage or tail, be displayed on an upper and a lower wing surface as well are entirely consistent with anti-smuggling requirements. DEA pilots have been fired upon from the ground as they tried to fly low enough to read tail numbers. Although the FAA has stated that an increase in required number size has no "aviation safety basis," it is this Commission's position that needless exposure of Federal agents to hostile fire should be considered an "aviation safety" concern sufficient to justify remedial action. Again, reports that a change in required number size or location would be very unpopular with the general aviation community seem frivolous in the context of issues as grave as those under discussion here. There are a number of additional aviation-related proposals being advanced by Customs today, concerning such matters as pre-filing of "border flight plans," advanced notice of entry into U.S. air space, and improvements in pilot identification certificates, which appear to this Commission to be worthy of adoption, absent some compelling opposition.[82]

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[81] The importance of extra fuel tanks to the smuggler's trade is well known. Evidence of this is found in the testimony of convicted smuggler Adler Seal:

> MR. SMITH: In that advertisement, for example, that provides extra fuel tanks -- extended-capacity fuel tanks -- based on your years as a legitimate aviator and as a smuggler, could you tell us if you are aware of any legitimate purpose for tanking out an airplane that way?
>
> MR. SEAL: Oh, I'm sure that there are isolated cases where the legitimacy of putting an extra fuel tank in an aircraft is necessary. But for every one of those reasons that are very rare, I'm sure there are 100,000 smuggling airplanes that have them put in.

Seal Testimony, supra note 63, at 35-36. The FAA is presently preparing proposed rules concerning add-on fuel tanks, aircraft identification numbers and plates, transponders and flight plans. Letter from Administrator, FAA to President's Commission on Organized Crime, February 7, 1986.

There are other promising areas for Customs/FAA cooperation. Customs reports, for example, that the FAA, in undertaking its long-term buildup of the approach radar system, is working closely with Customs to accommodate the latter's needs. This is to be encouraged, particularly by the Policy Board, which has both Customs and the FAA on its Coordinating Group.

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[82] This Commission is well aware of arguments that have been advanced in opposition to statutory and regulatory tightening, alleging in one form or another that pilots sufficiently outside the law to be engaged in smuggling will not be deterred in the least by "paper" requirements. Such arguments miss the point. We may not be able to stop smugglers themselves with tighter regulation, but we can certainly limit their options and make them far more visible by carefully limiting the "legal" traffic in which they hide. The movement of the FAA as well as Customs in this area is encouraging. See supra, notes 80 and 81.

One legal issue which would benefit from careful analysis by the Board is the extent to which current asset forfeiture provisions need revision to enable seizure of aircraft and other equipment which is rented or leased by traffickers for the purpose of avoiding forfeiture.

Another area worthy of study is the extent to which Customs' air interdiction capabilities could be enhanced by Coast Guard aviation components. Although such a conept might be contrary to existing understandings, it would be a grave omission if substantial Coast Guard aviation assets were overlooked, particularly at a time when fiscal considerations threaten the Customs air operations budget.

Maritime Operations

In the area of maritime interdiction, the Coast Guard serves as lead agency. Its success has been remarkable and is limited only by shortages in resources. New tactics and innovative forms of assistance by the Navy have significantly improved the Coast Guard's capabilities.

There is no question that not only maritime traffickers but air smugglers as well are intimidated by the seaborne detection capabilities of Coast Guard vessels.[83] Inasmuch as the most critical limitation on Coast Guard capabilities is the lack of budgeted resources[84], the single most pressing concern is the augmentation of the Coast Guard budget to permit more extensive participation in interdiction operations. A proposal, which has surfaced annually but to no avail as yet, is the imposition of user fees for various Coast Guard services now provided to the the boating community gratis. As with the aviation community in connection with the FAA discussed above, there is considerable opposition to maritime measures that would inconvenience the user community or cost it money. However, given the inescapable facts of the drug invasion this country is experiencing, the nominal costs of various user fees would seem to be a small price for boaters to pay as their contribution to what must be seen as a national effort to defeat a deadly enemy.

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[83] Adler Seal, for example, acknowledged that:

> The Navy, Coast Guard as you have it, with airborne-detecting radar on cutters in choke points and throughout the Gulf that had the capability of collaborating with air traffic control, what's a bandit and what's not, is a big deterrent.

Seal Testimony supra note 63, at 90.

[84] Even as this report was being prepared, the Coast Guard was confronted with possible cuts in the Congressional appropriations process with ranging from $30 million to $200 million.

In-shore operations of the Customs Service bolster Coast Guard maritime interdiction operations. Having received over $12 million for maritime operations in its fiscal year 1985 supplemental appropriation, Customs has begun to get fast, state of the art pursuit boats in the water off the coast of Florida. These have been used to great effect, and more such craft should be deployed.[85]

One innovation for which the Customs Service and the leadership of the National Narcotics Border Interdiction System (NNBIS) are to be commended is the highly effective integration of State and local authorities in the recent operation "Blue Lightning." It is clear and has been stressed throughout this report that comprehensive, coordinated multi-agency operations are absolutely essential to effective anti-drug programs. On the Federal level, this typically means "horizontal integration," i.e., the careful combination of co-equal Federal agencies. Blue Lightning is a fine example of the equally important concept of "vertical integration," the well-planned and complementary cooperation of Federal, State, and local resources aimed at a specific trafficking activity. The Customs Service and NNBIS are rightfully proud of this accomplishment and are encouraged to pursue similar successes in operations to come.

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[85] The purchase of more pursuit boats would require additional funding. One source for such funds is the enhanced forfeiture program discussed in Chapter 7 of this report.

Consolidated Efforts

The evolution of interdiction in recent years has been in the direction of consolidation of intelligence and operations. This is a trend characteristic of anti-drug efforts generally,[86] and it is a proper response to the breadth of the drug smuggling situation. In the area of interdiction, the most prominent joint efforts in addition to NNBIS are the National Drug Enforcement Policy Board (the Board) and the El Paso Intelligence Center (EPIC). All are described in detail elsewhere in this report.

The following is a proposed realignment of these organizations, based on this Commission's review.

First, our proposal recognizes the leadership role of the Board. That important topic is the subject of a separate analysis in this report.[87] Within the Board and as a part of its coordinated program, we propose the combination of the functions of EPIC and NNBIS into a single, all-source intelligence facility. In the critical early stages of designing and implementing such an operation, the Vice President's leadership will be invaluable. The combined intelligence center will incorporate the input of all intelligence-gathering components at the Federal level, including those sources already feeding into EPIC and NNBIS, as well as new sources still to be developed, as outlined below.

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[86] See, _e.g_. discussion of National Drug Enforcement Policy Board _supra_ at 273-280 and 311-317.

[87] _Id_.

The present duplication between the various functions performed by EPIC and NNBIS has been acknowledged by such authorities as David Westrate, Assistant Administrator for Operations of the Drug Enforcement Administration, the parent agency of EPIC.[88] Although it is true there are certain functions being performed by each of the two activities, which are not duplicated by the other[89], this should not prevent effective integration of their functions. Everywhere in the current Federal response, we find a movement toward consolidation and coordination[90]. Intelligence and planning should not be exceptions.

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[88] Westrate Statement, supra note 42, at 34-35.

[89] EPIC, for example, is a funded activity, with agency staff representatives detailed in large numbers, gathering and disseminating intelligence concerning areas not limited to interdiction. It is of great value, for instance, in domestic investigations by the Federal, State, and local authorities. NNBIS, on the other hand, has no budget of its own, is restricted to interdiction matters, and has no operational authority. It can only advise and recommend. Nevertheless, as this report makes clear, the criminals who traffic in drugs are organized into single networks with interdependent elements. A system which divides intelligence concerning those elements among separate facilities is necessarily less efficient than a single, carefully coordinated operation. This concept is implicit in the joint operations already in place. EPIC relies upon the participation of numerous Federal participants. NNBIS combines the complementary functions of various Federal agencies with some commonality of interest. The Policy Board itself is a recent effort at combining and coordinating Federal interests in a

A combined all-source intelligence center would require at least two features not found in either NNBIS or EPIC. One is a physically secure headquarters facility. EPIC is presently located in a private office building in El Paso. It has neither the space nor the necessary physical security to accommodate the comprehensive input advocated here. NNBIS headquarters is in the Old Executive Office Building in downtown Washington, and its regional facilities are located in various Federal buildings around the country. While such quarters might provide adequate physical security, they are not equipped to provide for the scope of the proposed undertaking. A secure facility with sufficient physical dimensions is crucial, as are secure communications with participating agency and military headquarters. Ft.

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single body. It is only logical and consistent to continue to pursue such coordination by combining EPIC and NNBIS under the leadership of the Vice President as a component of an overall Policy Board effort.

[90] Interdiction is certainly not the only segment of the Federal effort in which a trend to consolidation and coordination is found. The Board is an example of the same phenomenon of the highest planning level. Similarly, one of the most effective components in the field of domestic investigation and prosecution is the Organized Crime Drug Enforcement Task Force system, a model of multi-agency success discussed in another section of this report. See supra at 297-298.

Bliss, Texas, is a potential site, as it provides the necessary physical security and is located near the present EPIC facility. This and similar locations should be considered.

The second requirement of the facility proposed here is enhanced intelligence input. Thorough, "real-time" intelligence[91] is absolutely vital to effective interdiction, and it is almost as critically important to other areas of enforcement operations as well. The importance of intelligence is such that it is treated as a separate topic below. At this point, it is sufficient to note that the design of a new center must from the very outset include the most thorough provisions for the maximum intelligence contribution permitted by law and physical and technological capabilities.

Military Support for Interdiction

Perhaps the single most valuable development in the area of interdiction in recent years has been the assistance rendered by components of the Department of Defense. Such activities were constrained somewhat by the Posse Comitatus Act until certain exemptions to the Act were passed in

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[91] "Real Time" intelligence is defined as information transmitted contemporaneously with the event reported.

December 1981.[92] Since that time the assistance rendered by the military has grown dramatically. In calendar year 1984 the military provided assistance to interdiction efforts worth $100 million by Pentagon calculations.[93] Such assistance is typically in the form of aerial surveillance, transport of enforcement personnel, and loans of equipment and personnel as permitted by law.

The role of the Defense Department has become steadily more active, more innovative, and more flexible. The quality and quantity of such assistance, however, continue to be limited by the constraints found in the Posse Comitatus exemptions: military assistance to law enforcement cannot include direct participation by military personnel in arrest or seizure activities, and it can be provided only if it does not affect military preparedness. Furthermore, law enforcement authorities will be required by the Economy Act[94] to reimburse the Department of Defense for assistance provided, unless such assistance is incidental to existing military operations or provides "equivalent training." Reimbursement may also be waived, if such waiver does not adversely impact military preparedness. In this regard, as in other, the Department of Defense has been increasingly flexible. One example of this is the expanded delegation of authority to waive reimbursement, as found in the January 2, 1985, modifications to the applicable Departmental directive.[95] Another is the increasingly positive liaison role being played by the Department of Defense Task Force on Drug Enforcement.

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[92] The mere fact that the Posse Comitatus Act is found in one title while exceptions to it are located in another has led to delays and confusion in pursuing opportunities permitted by the latter. It is recommended therefore that these statutory provisions be combined in a single measure, which would include a statement of purpose directing liberal interpretation of the permissive language of the exception, consistent with other policy recommendations found in this report. Posse Comitatus Act found at 18 U.S.C. §1385. Exemptions to Posse Comitatus Act found at 10 U.S.C. §371 et seq.

[93] Testimony of Dr. Lawrence J. Korb, Assistant Secretary of Defense for Manpower, Installations and Logistics, before the House Subcommittee on Government Information, Justice and Agriculture, March 16, 1985. A summary of Department of Defense support contributed to law enforcement is included in this report as Appendix E.

There are grounds for concern that the military's role continues to be too narrowly defined. There appears to be a fundamental misconception at the very top of the Department concerning the permissible scope of the military's role. Writing to the Chairman of the House Armed Services Committee in June 1985, Secretary of Defense Caspar Weinberger stated that direct military participation in drug seizures outside United States territory would do violence to "the historic separation between military and civilian spheres of activity . . . one of the most fundamental principles of American democracy." This Commission has been unable to find the basis for such a "fundamental principle" of co-equal "spheres of activity."[96] The fact is that the military, rather than being a parallel entity, has traditionally been subject to the direction of the civilian "sphere." Indeed, the military's Commander-in-Chief is a civilian. The Posse Comitatus Act does no more than prohibit use of military forces to enforce civilian laws on the territory of the United States. The Constitution was in existence for approximately a century before such a law was passed by Congress. The Act has been amended once since then, and it can be amended again if appropriate. Furthermore, there is nothing in the laws of the United States forbidding an active enforcement role by the military *outside* United States territory, except the requirement of reimbursement. This in turn hinges upon the definition of "military preparedness." However, nowhere in the debate over the military's role in this area has this Commission found a discussion of this term. The definition of the military's role has been left to the military itself, which, through the Joint Chiefs of Staff, has declared that the military shall be prepared to serve national security by providing:

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[94] See 31 U.S.C. §1535.

[95] Department of Defense Directive 5525.5 (March 22, 1982, as modified on Jan. 2, 1985).

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[96] Nevertheless, the Defense Department's preferred view enjoys considerable currency. It has been accepted even by some outspoken proponents of an expanded military role in interdiction. *See*, for example, statement of Honorable Charles B. Rangel before the Gulf Coast Governors' Conference on Drug Trafficking, January 17, 1985, p. 16, and remarks of the Honorable Charles E. Bennett, reported in *Greater role for military proposed in drug arrests*, Wash. Times, May 22, 1985, at 5A.

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> a defense posture capable of successfully resisting hostile or destructive action from within or without, overt or covert.[97]

As described in Chapter 3 of this report, international drug traffickers have regularly formed alliances with insurgent and terrorist forces in certain countries. In a few instances these alliances may actually threaten friendly governments. In many more countries such a combination at least drains resources from constructive goals and inhibits efforts to build or maintain a stable democracy. Even where the threat is more remote, it is clear that the smuggling techniques in use are the very same ones that are or could be used to move personnel, weapons, and other supplies for insurgent groups. For these reasons alone, the activities of traffickers should bring them squarely within the national security concerns of the Department of Defense.[98] This fact has already been recognized by the Vice President, who has stated clearly that "success against drug smuggling is intimately tied to the continuation of freedom and democracy in the hemisphere."[99] Recognition of this fact would permit the

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[97] Department of Defense Dictionary of Military and Associated Terms 244 (Joint Chiefs of Staff Publication No. 1, April 1, 1984).

[98] For a full development of this theme, see General Paul F. Gorman (USA Ret.), Illegal Drugs and U.S. Security 25 (paper prepared for the President's Commission on Organized Crime, Sept. 18, 1985)(Appendix G).

[99] Quoted in L.N. Schowengerdt and T. P. Hart, The National Narcotics Border Interdiction System, The Bulletin 25 (U.S. Coast Guard Academy Alumni Association, November/December, 1984).

Defense Department much greater latitude in conducting military operations aimed at disrupting trafficking organizations. Examples of such programs include a wide range of activities, such as expanded and focused intelligence gathering,[100] security assistance to receptive host governments,[101] expanded deployment of tethered aerostat radar sites,[102] and joint research and development between military and law enforcement agencies to provide greater operation compatibility.[103]

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[100] A specific proposal for a "Caribbean Basin Radar Network" is found at Gorman, supra note 98, at 33. There is no question that a southern hemisphere facility of this type is critical to the "all source" intelligence center proposed earlier in this section.

[101] There is compelling evidence demonstrating not only the willingness but the desire of certain governments for such assistance. Colombia, for example, has in its present inventory C-130 aircraft which would be a suitable platform for "look-down" radar, which could be provided along with technical assistance for installation and maintenance relatively cheaply. Testimony of General Paul F. Gorman (USA Ret.), former Commander of the U.S. Army's Southern Command, before the House Subcommittee on Government Information, Justice and Agriculture, March 15, 1985. Such an approach has the support of the Joint Chiefs of Staff, according to at least one member, Admiral James D. Watkins, Chief of Naval Operations. Military Urges Wider Drug War, Wash. Post, June 20, 1985, at A22.

[102] Such sites, with their significant range and "look down" capabilities, have been extremely successful in the south Florida area. Commission investigations have revealed that similar installations on the southwest border would be equally valuable if tied into the Radar Operations and Control Center (ROCC) at March Air Force Base. The inclusion of existing military approach radar installations would enhance such a system.

[103] Such joint research and development is already under way in some instances. An example is the current agreement between the Department of Defense and the Customs Service concerning joint development of the APG-66 radar, cited by the Honorable William von Raab, Commissioner of Customs, in testimony before the House Subcommittee on Government Information, Justice, and Agriculture, March 15, 1985.

Beyond threats to friendly democracies, international drug traffickers should be considered a threat to our national security because they comprise a direct attack on the physical and social well-being of our country. The costs of this invasion, which comes by air, sea, and land, is thoroughly documented in this report. Recognition of this attack as a ". . . destructive action from without . . ."which is within the meaning of the Joint Chiefs' definition, would bring the Department of Defense squarely into the war in which we presently find ourselves. This may be further than present policymakers are prepared to go, but it is surely time to bring the issue into the debate so that it can be decided on the basis of what is actually permitted or proscribed by the laws and Constitution of the United States.[104]

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[104] One category of military assets not subject to Posse Comitatus restrictions is the National Guard, unless acting in its "federalized" capacity. These units are frequently well-trained, suitably equipped, and highly motivated to conduct anti-drug efforts. These are taking place already, to a limited extent, and those operations are summarized in Appendix E. The potential of the National Guard is well recognized by many Governors already. Unfortunate, this recognition seems to go hand in hand with a demand for more Federal funding for State National Guard operations. See, for example, comments of Governor Mark White of Texas before the House Subcommittee on Government Information, Justice, and Agriculture, March 15, 1985. This Commission has pointed out in this report that an extremely promising source of such funding is an aggressive State program of asset forfeiture, and we urge States to pursue this option and apply it to National Guard operations as well as other anti-durg measures. We also recommend that the same energy and purpose which brought about the Gulf Coast Governor's Conference be channeled into regional partnerships, in which States sharing common problems, such as an influx of air smugglers in response to pressure in other areas, combine their planning so that their law enforcement agencies and National Guard components can play coordinated and complementary

DOMESTIC INVESTIGATIONS AND PROSECUTIONS

Domestic investigative and prosecutive activity is only one facet of drug law enforcement.[105] As with all other approaches designed to reduce the supply of drugs, proper assessment of their effectiveness requires that realistic goals be established. As this report has demonstrated, it is unrealistic to expect that domestic law enforcement alone will solve, or even substantially reduce, the Nation's drug abuse problem. Rather, its goal must be a more limited one: to increase the arrests and successful prosecutions of drug traffickers, whether they be importers, wholesalers, or retailers, and those who assist them, including pilots, bankers, and attorneys, and the forfeiture of their properties accumulated from criminal activity.

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roles.

In presenting the argument for an expanded definition of national security, this Commission is mindful of the extremely significant civil liberties issues which attend it. Nothing advocated here should be construed as an endorsement of a course of action which does violence to our fundamental freedoms. On the contrary, this Commission urges careful attention to civil liberties questions in any policy formulation in this area.

[105] Drug law enforcement is one of the five major elements of the overall National strategy for the prevention of drug abuse and drug trafficking. 1984 National Strategy, supra note 35. In addition to domestic investigative and prosecutive activity, "drug law enforcement" for this purpose also includes drug interdiction and border control (Id. at 52). See discussion supra at 341-365.

The attainment of this objective would contribute to the ultimate national policy goal of eliminating drug use in several ways. First, it would directly reduce the supply of drugs by removing from the illicit drug market those drugs that are seized along with the arrested traffickers. Second, it would reduce the supply of drugs indirectly by disrupting the networks that make it possible to distribute drugs efficiently. Finally, the traffickers would likely raise the price of their product to reflect the increased risks, which theoretically should cause a reduction in the overall consumption of drugs.[106]

In a recent study prepared by the Rand Corporation the authors concluded that prevention programs, not intensified domestic law enforcement, were the best approach to control adolescent drug use.[107] The Commission agrees with the Rand

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[106] That an increase in the price of drugs results in a decrease in consumption is predicated upon the assumption that the demand for drugs is relatively elastic. However, this assumption may be incorrect; according to Mark Kleiman, the demand for drugs, specifically cocaine and marijuana, may be inelastic. Kleiman, supra note 19, at 9. This observation may be true with respect to those users who are physically or psychologically dependent on drugs. However, the Commission has concluded that much more information and data concerning the dynamics of the drug industry, and specifically its pricing mechanism, are needed before a definitive judgment regarding the elasticity of the demand for drugs may be made. Nevertheless, the Commission believes that the prices of drugs, if they are sufficiently high, will dissuade many non-drug users from even experimenting with drugs.

[107] J.M. Polich, P.L. Ellickson, P. Reuter, and J.P. Kahan, Strategies for Controlling Adolescent Drug Use viii (Feb. 1984) (prepared under grant from the Conrad Hilton Foundation to the RAND Corporation)(hereinafter referred to as RAND Corporation Report).

Corporation's conclusions concerning adolescent drug use and believes that they are equally valid with respect to adult drug use. However, such conclusions should not be interpreted as a call for a reduction in domestic law enforcement efforts against drug trafficking. Without effective domestic law enforcement, the drug abuse problem, and its concomitant organized crime effects, would be immeasurably worse.[108]

Although domestic law enforcement has a limited, albeit essential, role to play in the national effort against drug abuse, the Commission has concluded, on the basis of its investigations, hearings, and study, that changes in focus and attitudes and a rearrangement of priorities must be undertaken to achieve the maximum effect of domestic law enforcement. Before discussing these matters, it is necessary first to address two fundamental issues: (1) Do organized crime policy and drug abuse policy conflict? and (2) What, if any, should be the level of interaction and cooperation between Federal law enforcement agencies on the one hand and State and local agencies on the other?

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[108] Despite its assessment that intensified law enforcement would make only a small contribution to the effort to deal effectively with adolescent drug use, the Rand Corporation report emphasized that law enforcement against drug traffickers should not be abandoned because "[e]nforcement has certainly made drug dealing more risky, and it may make it more difficult for novice drug users to find dealers." Id. at xi.

Professor Mark H. Moore, a former Special Assistant to the Administrator of the Drug Enforcement Administration, has described the objectives of U.S. organized crime policy as follows:

> [T]o suppress the provision of illegal goods and services that constitute the core of organized crime, to prevent the violence and corruption that is more characteristic of organized crime groups than other kinds of criminal activity, and to prevent the emergence of very large, durable organizations with well developed capacities for violence and corruption.[109]

This Commission believes that the Nation's drug policy must have as its goal the elimination of illegal drug use. Domestic law enforcement contributes to this goal by reducing the supply of drug in the illegal market and by increasing the prices of drugs that remain available for purchase.[110] It has been suggested that the pursuit of the Nation's drug policy, without regard for its impact on organized crime, may exacerbate the country's organized crime problem by enriching organized crime groups, eliminating their competitors, and encouraging trafficking organizations to become organized crime groups if they are not already.[111] Although agreeing that such a concern is legitimate, this Commission has concluded that drug and organized crime policies do not inherently conflict.[112] Indeed, there is substantial, if not complete, overlap in the goals of the two policies because, as the Commission has found, drug trafficking is a principal activity of organized crime groups. In light of this, the Commission recommends that targeting high-level organized-crime trafficking groups, whether they be foreign, multinational or domestic, should be the top priority of Federal domestic law enforcement. As Professor Moore has stated:

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[109] Mark H. Moore, Drug Policy and Organized Crime 62 (paper prepared for the President's Commission on Organized Crime, Oct. 15, 1985)(Appendix G).

[110] Id. at 60.

> What is not in conflict, however, is the need of both drug abuse policy and organized crime policy to develop and use tactics that are successful in attacking large, entrenched criminal organizations. This is useful to drug policy, and

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[111] Id. at 86. See also Kleiman, supra note 19 at 15-16:

> On the other hand, an increase in the overall level of drug enforcement not aimed specifically at organized crime groups may tend to frustrate organized crime control by helping existing organized crime control groups profit from the drug trade and by encouraging existing drug enterprises to take on more organized crime characteristics.

Kleiman notes in addition:

> [T]ightened general drug enforcement--as opposed to drug enforcement targeted at organized crime-- will tend to give organized crime groups and organized crime - like groups relative competitive advantage, because their capacity for violence and corruption helps protect them against ordinary enforcement actions.

Id. at 18.

[112] See Moore, supra note 109, at 62-63. Where there is the potential for conflict, careful and thoughtful strategic planning can minimize, if not eliminate, the problem.

essential to organized crime policy.[113]

The Commission is aware that some commentators have criticized the Federal Government's bias in favor of enforcement against high-level dealers to the virtual exclusion of lower- or street-level enforcement.[114] However, the Commission's recommendation that targeting organized crime trafficking groups should be the top priority of Federal domestic law enforcement should not be construed to mean that lower-level enforcement is not useful and therefore has no place in the Nation's drug policy. On the contrary, such lower-level enforcement is essential to achieve the goal of eliminating drug use for several reasons. As discussed earlier, the arrest of the customers of drug retailers may result in a direct and immediate reduction in the demand for drugs. In addition, successful enforcement efforts directed at lower-level dealers will reduce the supply of illegal drugs and raise the price of drugs availabel for purchase, thus resulting in lower drug consumption. Finally, lower-level enforcement operations are useful in providing information that will be invaluable to those involved in investigating high-level organized crime trafficking groups. The absence of vigorous lower-level domestic law enforcement could encourage organized crime groups to remain in drug trafficking, and quite possible spawn more such groups. High-level enforcement efforts could be crippled, if not completely undermined, by a lack of a complementary, lower-level effort.

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[113] Id. at 88 (emphasis in the original).

[114] The following passage is an example of this viewpoint:

> [U]ntargeted drug enforcement efforts, aimed at major dealers in general, are likely to catch the weakest dealers, the ones least able to use violence and corruption to fight back.
>
> Moreover, enforcement against high-level dealers probably increases drug consumption. If this is true, current policies have the perverse effect of increasing the incomes of the surviving major drug dealers.
>
> Thus, by picking off the competition and increasing the incomes available to the best-organized drug dealers, high-level drug enforcement efforts can actually make the organized crime situation worse. Here again, street-level enforcement, which cuts market size without boosting price and thus reduces the total dollar value of the drug business, has an advantage over the high-level enforcement now in fashion.

M. Kleiman, Better way to fight drugs, Boston Globe, Sept. 18, 1984, at 15.

A fundamental question remains: Which agencies should be responsible for the various facets of domestic law enforcement? The investigation of high-level organized crime trafficking groups, whose activities are generally regional, national or international in scope, is expensive, time consuming, and requires special skills and sophisticated tools. The Federal government, through its agencies, is best equipped to undertake such investigations. State and local agencies, because of their unique knowledge of local conditions and expertise in the required techniques, are more qualified to conduct lower-level domestic law enforcement, including street operations and investigations of certain smaller and geographically-restricted trafficking organizations.

The conclusions and recommendations set forth in the preceding paragraph are not intended to suggest that Federal domestic law enforcement and that of State and local agencies should be completely separate and independent. The drug problem facing the United States is a national one, and the efforts of all law enforcement agencies must be coordinated and interrelated to some extent, if we are to deal successfully with the problem. The required level of cooperation in some instances may be more than the routine exchange of drug intelligence or the suppression of interagency rivalries and jurisdictional disputes. In this regard, the Commission endorses generally the view expressed recently by a Federal prosecutor concerning drug enforcement efforts in New York City:

> [O]ne can not compartmentalize the narcotics enforcement effort, and leave the streets entirely to state and local enforcement and the conspiracy cases entirely to the federal government. While each may have a primary area, each must do some of both. The ideal combination may be some federal prosecution of state and local arrests, and a significant state and local participation in joint Task Forces, aimed at dismantling of drug networks through the conspiracy law.[115]

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[115] Statement of Rudolph W. Giuliani at 11, Subcomm. on Alcoholism and Drug Abuse of the Senate Comm. on Labor and Human Resources (May 10, 1984) (Giuliani Statement).

Examples of successful joint ventures involving Federal, State and local personnel include the Organized Crime Drug Enforcement Task Force Program, Operation Pressure Point, and the New York Drug Enforcement Task Force, which was formed in 1970.[116] These programs can serve as useful models for any future cooperative domestic law enforcement arrangements that might be needed.

Federal Domestic Law Enforcement

As a result of its investigation and study, the Commission has concluded that the tools and techniques needed to permit Federal law enforcement agents to prosecute their portion of the war against drug traffickers successfully are for the most part currently available.[117] The need is not for sweeping new legislative initiatives but for further changes in attitudes and a greater commitment to cooperation and coordination among the Federal agencies involved in drug law enforcement. Balkanization and jurisdictional disputes between agencies are the most serious obstacles to success in the struggle against drug trafficking. The personnel of each Federal agency involved in domestic law enforcement, from the chief executive to the newest employee, must understand that their agency alone cannot solve the Nation's drug problem. Acceptance of this reality will go a long way in eliminating the destructive competition that in the past has hampered Federal law enforcement.

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[116] Operation Pressure Point was directed against street level drug dealing in the lower East Side in New York City; a number of those arrested as a result of Operation Pressure Point were prosecuted in the U.S. District Court for the Southern District of New York. N.Y. Times, Oct. 22, 1985, §B, p. 3. Giuliani Statement, *supra* note 115, at 10-11. The New York Drug Enforcement Task Force was a joint local, State and Federal operation that targeted the mid-level dealer. *Id*. at 2-3.

[117] These include the Bail Reform Act of 1984 (18 U.S.C. §§3141-3151), the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. §1961 et seq.), use immunity (18 U.S.C. §§6001-6005), forfeiture (18 U.S.C. §1963; 21 U.S.C. §§853 and 881), the Continuing Criminal Enterprise statute (21 U.S.C. §848), electronic surveillance (18 U.S.C. §2510 et seq.), and currency transaction reports (31 U.S.C. §§5311-5323).

As discussed above, the Commission has concluded that the targeting of high-level organized crime trafficking groups should be the top priority of Federal drug law enforcement efforts. Because of the sophistication and complexity of such organizations and their operations, the Federal response must be equally sophisticated and complex. The Reagan Administration's establishment of the Organized Crime Drug Enforcement Task Force Program (OCDETF Program) in late 1982 was an attempt to create a mechanism for attacking high-level organized crime trafficking groups; by their own account, the multiagency Task Forces, drawing on the resources of a broad spectrum of Federal, State and local agencies, have achieved an encouraging degree of success.[118] The success that has been achieved was not the result of the development of new techniques but of the efficient use of existing ones:

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[118] 1984 Annual Report of the Organized Crime Drug Enforcement Task Force Program, Chapter 5, at 71 (March 1985) (hereinafter cited as 1984 OCDE Report).

> The OCDE Task Force Program can lay claim to no new inventions in the fields of investigative and prosecutorial techniques. It can, however, be justifiably proud of its creative utilization of existing tools.[119]

The Commission applauds the OCDETF Program and those who designed and have implemented it. It strongly favors the Programs's continuation and expansion, to the extent that it is desirable and feasible to do so, for several reasons: the Program has resulted in the elimination of interagency disputes to a substantial extent; the disruption of large and sophisticated trafficking groups requires large, efficient and strongly supported enforcement organizations; and multiagency task forces are particularly suited to use the Federal conspiracy, Racketeer Influenced and Corrupt Organizations (RICO), Continuing Criminal Enterprise (CCE), and forfeiture statutes to the maximum and optimum extent possible. In addition, the different investigative techniques used by the participating agencies increases the probability of successful infiltration of trafficking organizations. However, the effectiveness of the OCDETF Program could be enhanced if the following changes were made.

In creating the OCDETF Program, its designers concluded that to insure the maximum support of the participating agencies, a consensus-based decision-making process was necessary.[120] In this regard, no single agency was designated as the lead Task Force agency. Although participants in the OCDETF Program have been able to reduce interagency competition and conflict to a substantial and significant extent, the Commission believe that further improvement is both desirable and feasible. Such improvements would flow naturally from a renewed, unambiguous commitment to the Program and its goals by participating agencies. Increased cooperation and coordination might also result, if DEA or the FBI were designated as the lead Task Force agency,[121] or if the United States Attorneys were given greater authority with respect to the operations of the Task Force.[122] The Commission recommends that those in charge of the OCDETF Program should consider whether a lead agency should be designated or a U.S.

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[119] *Id*. at 3.

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[120] 1983 Annual Report of the Organized Crime Drug Enforcement Task Force Program 16-17 (March 1984) (hereinafter cited as 1983 OCDE Report). It was recognized early on that such a "consensus approach is not always the most efficient and has other potential drawbacks." Id at 17.

[121] Outside the context of the OCDETF program, this Commission is committed to the concept of a lead agency in the fight against drug trafficking because it is only through such a device that coordination can be assured and destructive rivalries can be eliminated. See also, General Accounting Office, Report to Congressman Glenn English: Customs Services' Participation in Followup Investigations of Drug Smuggling Interdictions in South Florida 11 (July 18, 1984).

[122] Although the core city U.S. Attorney is directly responsible for the performance of his regional Task Force and for facilitating interaction among the various agencies, he or she has no line authority over the personnel of the investigative agencies. 1984 OCDE Report, supra note 118, at 8.

Attorney be given greater authority to achieve even greater coordination of effort.[123]

Law enforcement agencies that participate in the OCDETF Program have other missions in the struggle against drug trafficking. For this reason, each "agency must balance its commitment to the Task Force concept with its fundamental mission.[124] Because the targeting of high-level organized crime trafficking groups should be the top priority and because the OCDE Task Forces are the best available devices for infiltrating and disrupting such groups, the Commission is concerned that, in allocating manpower and other resources between the program and other missions, the participating agencies should not shortchange the Task Forces in any way. The top echelon of each participating agency must be strongly committed to the OCDETF Program and its goals and must be actively involved in assuring its success. The required commitment and involvment are not satisfied by abdicating responsibility for insuring the success of the program to those heading field offices. Indifference at the headquarters level will be reflected eventually in field offices.

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[123] The Commission is aware of the strongly held view of many in the enforcement community that "investigative rather than prosecutorial agencies should retain professional control of intelligence gathering and investigative functions." 1983 OCDE Report, supra note 120, at 25. However, increasing the efficiency of Task Forces by endowing the core city U.S. Attorney with enhanced authority might be sufficient to overcome traditional biases, particularly if it is made clear that the lead role of the U.S. Attorney would be in the area of policy, not investigative or intelligence techniques.

[124] Id.

To signal their commitment to the program and to encourage their best agents to participate in it, the top executives of each participating agency should adopt an unambiguous policy that salary increases and career advancement within the agency for an agent who participates in an OCDE Task Force will not be adversely affected in any way by that participation. Such a policy would require that the evaulation of an agent assigned to a Task Force be based not on such criteria as the number of arrests or cases made or the amount of drugs seized. Evaluations should assess that agent's qualitative performance in complex financial and conspiracy cases, which may last more than two years and which may result in the arrest of few, albeit high-level and important traffickers.[125]

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[125] The Commission notes with approval that the criteria for evaluating success in the overall Federal effort against drug traffickers have shifted somewhat over the last decade from a "body count" measure to one which focuses on the assets seized and forfeited and on the position of those within the trafficking organizations who are arrested and prosecuted. See e.g., New Assault on Cocaine Pledged by U.S. Drug Chief in New York, N.Y. Times, Dec. 15, 1985:

> Unlike local police departments, which focus on so-called buy-and-bust operations -- quick arrests of low-level dealers -- Mr. Stutman [Special Agent in charge of DEA's New York City district office] pledged not to measure his success by the quantities of drugs seized. "Our object is to disrupt organizations," Mr. Stutman said. "Seizing their product is a nice byproduct, but not the be-all and end-all."

DEA's system of classifying violators with the intention of focusing agency resources on high-level traffickers and its

The OCDETF Program is only one facet of the Federal effort against drug trafficking. The effective functioning of the other factes of Federal domestic law enforcement, i.e., Organized Crime Strike Forces, the South Florida Task Force, the FBI, DEA, Customs, and U.S. Attorneys, is also essential if the Nation's drug problem is ever to be contained and eventually eliminated.

That the OCDE Task Forces are and should be primarily responsible for disrupting high-level organized crime trafficking groups does not mean that the other Federal efforts should be devoted to, or focused upon, lower- or street-level traffickers or purely local drug problems. For the reasons discussed above, these enforcement concerns are rightfully and almost exclusively those of State and local law enforcement. However, there will be cases against organized crime trafficking groups that will be deemed inappropriate for OCDETF treatment, and these will then have to be handled by some other Federal agency; this is also true with respect to large trafficking organizations that are not organized crime controlled and that may or may not be multi-jurisdictional.

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development and use of "controlled deliveries" technique (i.e., foregoing immediate arrests in the expectation of making arrests of more significant drug participants) are also indicative of a shift away from a numerical approach to defining success. With respect to DEA's classification of drug violators, this Commission would urge DEA to conduct a study with the objective of determining whether the system could be further refined so that those traffickers who are truly essential to the effective functioning of the drug industry in various parts of the country are made the priorities of that agency's enforcement efforts.

As a result of its investigation and study, the Commission has concluded that the non-OCDETF Program segments of Federal domestic drug law enforcement are for the most part functioning well and that the variety of investigative techniques that these agencies bring to the Federal effort to reduce the supply of drugs is a great benefit. The use of financial expertise, undercover, sting and reverse sting operations, informants, electronic and other kinds of surveillance, preselected target and target of opportunity approaches to initiating investigations, and buy-bust transactions are all useful ways of infiltrating trafficking organizations. However, the Commission is concerned that the healthy competition among enforcement agencies that the current organizationl structure is supposed to encourage often degenerates into jurisdictional conflicts that harm the overall Federal effort against traffickers. This will continue to occur unless top agency officials instill in their agents and employees the sense that genuine cooperation and coordination with other agencies are essential to the ultimate success of the Nation's drug effort. In this regard, the National Drug Enforcement Policy Board has an important and unique role to play insuring that healthy and constructive competition does not become destructive and petty conflict.

The Board could take one important step to eliminate jurisdictional disputes, as well as to avoid duplication of investigative efforts and to provide maximum safety to drug agents. This would be to require the establishment of a system whereby an agency would file a report with a central reporting repository, once it has opened an investigation of an individual believed to be a part of a trafficking operation. If two or more agencies were investigating the same individual, they would be notified of that fact, and they would be required to decide, after negotiations, the best way for conducting the investigation, e.g., a single agency or an ad hoc task force. Such a system would work at its optimal level only if all law enforcement agencies, including State and local units, participated. The Commission believes that such a reporting and control system is highly desirable and, because of existing technology, feasible. The Commission also believes that this system could be incorporated easily into the all-source intelligence and operations center, recommended elsewhere in this report.[126]

As result of the 1973 reorganization plan, the Customs Service was prohibited from conducting investigative, intelligence, and law enforcement functions, relating to the suppression of drug trafficking, at locations away from ports of entry or borders.[127] This aspect of the plan has been controversial and has elicited much criticism on the ground that it weakened the "Nation's capability to interdict the flow of narcotics into the United States."[128]

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[126] See supra at 338-340. In advocating this position, the Commission is aware that widespread dissemination of, and access to, intelligence, particularly by local agencies and departments, poses a serious security issue. For this reason, the proposal made here assumes an effective security mechanism of some type. An example might be the "designated contact" measures taken by EPIC to protect the security of access to its data by State and local officers.

The Commission has no objection to that feature of the 1973 reorganization plan that created a lead agency in Federal drug law enforcement, and indeed believes that it remains a valid concept today. However, the Commission has concluded that it is an appropriate time to study whether the functions of the Customs Service with respect to drug trafficking should be expanded to include investigative, intelligence, and law enforcement functions within this country, beyond the borders and ports of entry, where appropriate and subject to the oversight and supervision of the lead agencies.[129] In this respect, the Commission notes that the 1973 reorganization plan was modified somewhat when, on January 5, 1984, the Attorney General signed the "Request for Assistance and Authorization Respecting Drug Enforcement Activities of Certain Customs Officers in Domestic Drug Investigations." This action granted authority to the DEA Administrator to endow specific Customs agents, for a designated period of time, with the power, among others, to conduct investigative, intelligence, and law enforcement functions relating to drug trafficking.[130] Because this arrangement appears to have worked well, a broader exansion of Customs' functions may be warranted at this time in an effort to improve domestic law enforcement.

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[127] See supra at 218-219.

[128] S. Rep. No. 1039, 94th Cong., 2d Sess. 54.

[129] For discussion of the Commission's recommendation that the Customs Service be permitted to engage in foreign intelligence gathering, see supra at 325-326.

In addition to the attitudinal and organizational matters discussed above, the Commission proposes substantial expansion of the use of one particular investigative technique because of the magnitude of illicit drug production in this country. All of the PCP (phencyclidine), almost all of the methamphetamine, and an estimated 80 percent of injectable amphetamine available illicitly in the United States in 1984 were produced in domestic clandestine laboratories.[131] In addition, an increasing amount of cocaine in being processed in this country. In fact, the number of cocaine laboratories seized by law enforcement authorities in the United States between 1983 and 1984 nearly doubled.[132]

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[130] 1983 OCDE Report, supra note 120, at 24-25.

[131] Narcotics Estimate, supra note 26, at 37.

[132] Id. at 27. Twenty-one cocaine laboratories were seized in 1984 and 11 in 1983. The increase in domestic cocaine processing has resulted, in part, from controls in Colombia on ether, which is a chemical essential to processing cocaine. After the seizure of a large cocaine laboratory in New York in July 1985, U.S. Attorney for the Eastern District of New York, Raymond Dearie, commented:

> This case represents a disturbing trend in cocaine trafficking. In essence, we are paying a price for success in combatting the problem at its source.

10 Are Charged After Raids on 3 Cocaine Laboratories,

To combat both the domestic and foreign production of illicit drugs, law enforcement officials have, in some instances, targeted the chemicals used to manufacture the drugs.[133] For example, through its "Operation Chem-Con," DEA tracks the movement of chemicals used to process cocaine from the principal manufacturers, wholesalers and retailers to their final destinations. According to the chief of the DEA's cocain section, Johnny Phelps:

> Through cooperation gained by DEA from the world's ether industry and foreign law enforcement elements, we now have voluntary restrictions on sales to known trafficking groups and are able to seize shipments of chemicals after purchase causing great financial losses to cocaine producing consort[ia).[134]

In addition to the voluntary compliance of chemical companies in Operation Chem-Con, reporting requirements are sometimes used to control chemicals used to manufacture illicit

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N.Y. Times, July 12, 1985, at B3.

[133] These chemicals fall into three basic categories: (1) Precursor, which is a raw material used in the production of a controlled substance and which becomes part of the finished product; (2) Reagent, which is a substance that reacts chemically with one or more precursors but does not become part of the finished product; and (3) Solvent, which is used to dissolve solid precursors or reagents, to dilute reaction mixtures, and to separate and purify other chemicals. See, Frank Monastero, Recommendations for the Regulation of Selected Precursor Chemicals and Controlled Substance Analogs. (Paper prepared for the President's Commission on Organized Crime, Oct. 1985)(Appendix G).

[134] Cocaine Trafficking Hearing, supra note 63, at 553 (Statement of Johnny Phelps).

drugs. Piperidine, a chemical used to manufacture the hallucinogen PCP, is subject to reporting requirements under the Controlled Substances Act.[135] The provision requires that any person selling piperidine report to the Attorney General information concerning the sale, including identifying information about the purchaser, and the quantity, form and intended use of the piperidine.[136] This system has worked well and permits DEA to investigate any suspicious sales of piperidine. Since 1984 DEA has seized four clandestine PCP laboratories and has located at least ten other operations, which obtained chemicals for PCP manufacture by posing as legitimate businesses.[137]

Chemicals used to manufacture illicit drugs can be regulated in the same manner as controlled substances. Under the Controlled Substances Act, the Attorney General may place an immediate precursor[138] in the same schedule as the controlled substance for which it is a precursor.[139]

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[135] 21 U.S.C. §830. Penalties for piperidine offenses are set forth in 21 U.S.C. §841, which provides for a prison term of not more than five years, a fine of not more than $15,000 or both.

[136] 21 C.F.R. §1310.03.

[137] Monastero, supra note 133, at 4.

Although the regulation of chemicals used to manufacture illicit drugs can thwart efforts to produce these drugs and can help law enforcement officials to locate clandestine laboratories, several factors limit the effectiveness of such approaches. First, many of these chemicals have widespread legitimate uses in industry, and tracking their sales would be impractical. Even tracking a limited number of these chemicals would be costly, requiring adequate computer resources and individuals to review and analyze chemical sales information. Second, controls on chemicals may have only short-term effects. In the case of the reporting of piperidine, both use of PCP and clandestine laboratory activity appeared to decline from 1979 to 1981.[140] However, by 1982, trafficking in and abuse of PCP had increased.[141] Third, some chemicals can be obtained illicitly. For example, a shortage of P2P (phenyl-2-propanone), which is used to manufacture methamphetamine, resulted from the placement of P2P in Schedule II of the Contolled Substances Act.[142] Traffickers responded by increasing illicit manufacture of P2P in 1982.[143]

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[138] An "immediate precursor" is defined as a substance which is (A) "the principal compound used, or produced primarily for use, in the manufacture of a controlled substance; (B) which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance." 21 U.S.C. §802(23).

[139] 21 U.S.C. §811(e). The immediate precursor may also be placed in a schedule with a higher number than the controlled substance for which it is a precursor.

[140] National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate 1982.

[141] See also National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate 1983. Narcotics Estimate, supra note 26, at 41.

Despite these limitations, controlling a limited number of these chemicals has merit. The United Nations International Narcotics Control Board has identified the following chemicals as suitable targets for control: ether, used to process cocaine; acetic anhydride, (heroin); P2P, (methamphetamine); ergotamine (LSD); anthranilic acid (methaqualone); and piperidine (PCP).[144] This United Nations Board has called on countries in which illicit drug manufacture occurs to impose a licensing system and quotas for supplying and importation of these chemicals.

For the foregoing reasons, the Commission recommends that DEA should determine which chemicals currently used to manufacture illicit drugs should be subject to reporting requirements or placed in a schedule of the Controlled Substances Act. This review should included a consideration of which drugs are most abused, which have the most serious consequences, and which precursor chemicals are essential to the production process.

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[142] 21 C.F.R. §1308.12(f)(1985).

[143] 1982 Narcotics Estimate, supra note 140.

[144] International Narcotics Control Board of the United Nations, Report of the International Narcotics Control Board for 1984 (hereinafter cited as 1984 INCB Report), at 10, notes 13 and 14 (E/INCB/1984/1).

In addition, DEA should identify the resources needed for the computerization, analysis and follow-up of reports concerning chemicals selected for monitoring.

The Commission's final recommendations concerning Federal domestic law enforcement relate to the Federal agents and employees who are most involved in the Federal effort against drugs. This country owes these agents the greatest possible amount of protection and assistance against the vicious and ruthless participants in organized crime trafficking organizations. As the testimony of drug pilot Adler Barriman Seal before this Commission revealed,[145] because of the massive amounts of money involved, high-level traffickers are able to procure and use the products of the latest technological advances to facilitate their trafficking operations. Drug agents must also be given access to such state of the art equipment and weapons.[146] In this regard, the research and development operations of Federal drug law enforcement agencies should work closely with field agents to produce the equipment and tools needed to defeat drug traffickers.[147]

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[145] Seal Testimony, supra note 63, at 18-19.

[146] It is absurd that Federal agents with government-issued 38's must confront drug traffickers who use the latest in automatic and semi-automatic weapons.

[147] Although the Commission makes no specific recommendation with respect to this issue, a question that might warrant further study is whether it is efficient for each agency involved in Federal domestic law enforcement to have research and development units working on drug law enforcement projects.

Finally, this Commission has made several recommendations designed to improve Federal domestic law enforcement. However, the men and women involved in the day-to-day effort against drug trafficking have the most incentive and are the best qualified to offer suggestions as to how to improve domestic law enforcement. These "experts" should be encouraged to make recommendations and should be rewarded for the ones that are successful.[148]

State and Local Domestic Law Enforcement

The role of State and local agencies in the national campaign against drugs has been described above: they have the primary responsibility for lower- and street-level enforcement because of their proximity to the affected areas and because they possess or can adopt the tools necessary for carrying out their mission. The successful accomplishment of the mission of State and local law enforcement agencies is a desirable end, in and of itself, because harassment and disruption of drug retailers and smaller or geographically-restricted distribution networks could lead to a reduction in the supply of drugs, an increase in the price of the drugs remaining in the marketplace, and discouragement of non-drug users from experimenting with drugs. Successful completion of this mission will also permit State and local authorities to provide Federal law enforcement agencies with information that will be invaluable to the latter in infiltrating and disrupting high-level organized crime and other large trafficking organizations. The leaders of State and local agencies must constantly reiterate to their agents that their efforts cannot be viewed in isolation and that they are part of much larger nationl campaign against drugs. Such indoctrination will result in the kind of cooperation and coordination essential to the success of the overall national effort.

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[148] The Commission has made no recommendation in this report relating to money laundering by drug traffickers. The failure to do so is not an oversight. Recommendations concerning money laundering have been made elsewhere (The Cash Connection: Organized Crime, Financial Institutions, and Money Laundering (October 1984)), and the topic will be dealt with further in the Commission's Final Report. Suffice it to say here, if traffickers were unable to launder the proceeds of their operations, the Nation's drug problem would be considerably reduced. In addition, those traffickers who manage to launder and accumulate drug profits should be subject to aggressive investigation by the Internal Revenue Service. Based on his experience as both a Federal and local prosecutor, Commissioner Edwin Miller has observed that such a "net worth" strategy may be the only effective means of prosecuting drug "kingpins" who have insulated themselves from every part of their drug trafficking activities except the profits thereof.

Effective State and local domestic drug law enforcement will undoubtedly require increased expenditures, including the expandion of prison facilities. Although the drug problem is quite corretly denominated a National one, its devastating effects aremost pronounced at the State and local levels. Therefore, the Commission recommends that State and local governments determine what is necessary to permit their law enforcement agencies to carry out their drug mission successfully and do all they can to convince their citizens that any required increase in expenditures is absolutely essential. Such a campaign will be considerably more palatable if it includes a large segment of funding from seized drug revenues and assets, as described below.

The Commission has concluded that if a State is serious about responding to the drug problem within its jurisdiction it must provide its law enforcement agencies with certain tools that are available to their Federal counterparts. The Commission therefore recommends that those States, which do not already have such statutes, consider enacting legislation patterned after the following Federal statutes: Bail Reform Act of 1984,[149] the Racketeer Influenced and Corrupt Organizations (RICO) Act;[150] statutory use and derivative use immunity for witnesses;[151] statutory criminal and civil forfeiture provisions;[152] the Continuing Criminal Enterprise (CCE) statute;[153] Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (electronic sruveillance);[154] and the Currency and Foreign Transactions Reporting Act.[155] In addition, the Commission recommends that, where appropriate, States consider adopting statewide grand juries, with public reporting authority, to improve their investigations of drug trafficking organizations and eliminating accomplice corrobation statutes or rules. Although the Commission is cognizant that there may be legitimate State constitutional objections to the adoption of some provisions and devices, the Commission nevertheless believes that each has increased the effectiveness of Federal domestic law enforcement and would similarly increase the effectiveness of State and local law enforcement agencies in infiltrating and disrupting trafficking groups.

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[149] 18 U.S.C. §§3141-3151.

[150] 18 U.S.C. §1961 et seq.

[151] 18 U.S.C. §§6001-6005.

[152] 18 U.S.C. §1963; 21 U.S.C. §§853 and 881.

[153] 21 U.S.C. §848.

[154] 18 U.S.C. §2510 et seq.

[155] 31 U.S.C. §§5311-5323.

FOREIGN ASSISTANCE

Because the majority of drugs consumed in the United States is produced abroad,[156] a primary component of our national strategy is international cooperation to control drugs. A prerequisite of this strategy is the cooperation of drug producing and trafficking nations. While this has proved difficult or even impossible in some situations, due to the political, economic or social instability of some drug producing countries,[157] international cooperation can contribute to our national effort to reduce drug consumption.

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[156] According to the 1984 Narcotics Estimate, 100 percent of the cocaine, 100 percent of the heroin, and 88 percent of the marijuana used by American citizens are produced outside this country. Supra note 26, at 17, 31, and 47.

[157] See supra Chapter 3.

The United States provides various forms of assistance to other countries to help them in their anti-drug efforts, including both economic and military aid. According to the 1984 National Strategy For Prevention of Drug Abuse and Drug Trafficking, the objectives of the U.S. international strategy are:

> . . .strengthening U.S. efforts to assist foreign governments in stopping the production and transportation of illicit drugs and improving interdiction efforts in transit nations; encouraging and assisting governments of producer nations to undertake crop control programs as the most effective means of curbing production; developing innovative mutual assistance treaties with foreign governments, directed at facilitating judicial actions against the drug trade, seizing assets derived from drug trafficking, eliminating banking procedures which hide illicit drug transactions, and extradition and other legal arrangements; encouraging other nations to support international narcotics control programs, financially and with other resources, including developmental assistance linked with crop control and cooperative law enforcement efforts; encouraging international organizations and development banks to link their assistance with narcotics control objectives, where appropriate; and curtailing the diversion of pharmaceuticals and chemicals from legitimate international commerce.[158]

Indications are increasing that the concern over drug-related problems is becoming universal. This growing concern is due largely to recognition by governments in both developed and less-developed countries, that the illicit production, trafficking and abuse of drugs pose serious problems to their nations' development, their societies, and in some cases, to their national security.[159] The multiple effects of drug trafficking are increasingly felt in Latin America, Southeast Asia, and Southwest Asia.[160] These effects include crime, corruption, economic destabilization, political manipulation, and epidemic drug abuse. Much of the increased anti-drug activity in South American countries in the past two years correlates directly to the emergence of domestic drug problems in those countries, and their awareness of their own vulnerability to the myriad problems related to drug abuse.

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[158] 1984 National Strategy, supra note 35, at 69-70.

At a time when drug traffickers rule segments of some countries, and dominate local economies in others, an increasing number of nations are realizing that passivity is not the answer.[161] This realization is encouraging efforts for more cooperation with the United States in its multilateral enforcement and demand reduction programs.[162] Reduction in the demand for drugs in the United States and abroad is beginning to be perceived by drug producing and trafficking nations as a vital component in the fight against drug abuse. It is an objective that has greater long term potential for producing action by source nation governments than do efforts perceived as benefiting the United States exclusively.

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[159] General Gorman, supra note 98. Appendix G.

[160] See supra Chapter 3. See also Testimony by Assistance Secretary Jon R. Thomas, Bureau of International Narcotics Matters, U.S. Department of State, before the Committee on Foreign Relations, U.S. Senate, September 11, 1985.

[161] U.S. Department of Justice, Briefing Paper on America's War Against Illicit Drugs 3-6 (Sept. 1984).

[162] NDEPB Interim Report, supra note 12, at 21-22.

The Commission recognizes the importance of existing international drug control efforts. Because drug trafficking and production are threats to the stability of existing democracies, a primary goal of the United States and its allies should be to enhance the security of drug producing and transshipment regions. Because some source countries are promoting drug control in the interests of their own national security and public welfare more actively than they have in the past,[163] it is an opportune time for the United States to intensify its international drug control efforts. The success of these efforts requires the political and financial support of a much broader coalition within the international community.

The United States offers assistance to numerous countries around the world with drug abuse and trafficking problems, primarily through the Department of State's Bureau of International Narcotics Matters,[164] the Agency for International Development, [165] and the United States Information Agency. The United States currently supports crop eradication programs in

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[163] Colombia is a prime example. For a detailed discussion of this development, see INCB Report, supra note 144 at 2.

[164] FY 1986 Budget Outlay for BINM is approximately $60 million. Federal Drug Abuse Budget Summary at 5. Appendix D.

[165] FY 1986 Budget Outlay for AID is approximately $14.3 million.

14 countries and is working to develop such programs in several others.[166] These control efforts are vitally enhanced by the public awareness programs sponsored by the Department of State, the Agency for International Development, and the United States Information Agency.[167]

There has been an ongoing debate in this country concerning the wisdom of making foreign assistance, both general and drug-related, conditional on the progress of drug control efforts. Proponents of utilizing existing authority[168] to suspend aid to any nation not taking steps to control drug production claim that the United States should employ this leverage as a final step in

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Appendix D.

[166] *1984 National Strategy*, *supra* note 35, at pp. 65-79.

[167] *Id*.

[168] In 1972, the Foreign Assistance Act of 1971 (Pub. L. No. 92-226, §109,86 Stat. (Feb. 7, 1972)) amended the Foreign Assistance Act of 1961 (Pub. L. No. 87-195, 75 Stat. 424 (Sept. 4, 1961)) to authorize the President not only to furnish aid to any nation to encourage drug control efforts, but also to require him to suspend aid to any nation not having taken appropriate steps to terminate drug production or transshipment activities. In 1983, the Foreign Assistance Act was further amended by Pub. L. No. 98-164, §1003, 97 Stat. 1053-1057 (Nov. 22, 1983) to require the President to submit an annual report to Congress detailing drug control efforts of any drug-producing or transshipment nation receiving U.S. aid. This legislation also requires the President to suspend aid, and call on international banks to refuse loans, to any nation that has failed to take adequate drug control steps.

Although this authority has never been used by the President, in the first session of the 99th Congress, an amendment was attached to the Foreign Assistance Act (Pub. L. No. 99-83), calling for the suspension of U.S. foreign aid to Bolivia unless it eradicates 10 percent of its coca crop.

forcing nations to stop drug production. Opponents feel that sustained aid is necessary to achieve U.S.-supported drug control objectives and that an aid cut-off might undermine other U.S. interests in some cases.[169]

The National Drug Enforcement Policy Board is now in a central position in this area, as in all others in the anti-drug effort. It should carefully evaluate the data used in the President's annual decision whether to suspend aid to drug producing or transshipment countries, and make a suitable recommendation to the President for his ultimate decision.

Extradition and mutual assistance treaties can also contribute to international drug control efforts by enhancing diplomatic initiatives and providing leverage in United States' foreign policy decisions. Clauses in several existing treaties are particularly innovative and worthy of inclusion in future agreements.[170] The willingness of a country to engage in and actively implement drug-related extradition and mutual assistance treaties should be a primary consideration in ultimate U.S. policy decisions regarding foreign assistance to a country, and should be weighed in the deliberations of the President and the Policy Board described above.

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[169] Testimony by Assistant Secretary Jon R. Thomas, Bureau of International Narcotics Matters, Department of State, before the Select Committee on Narcotics Abuse and Control, U.S. House of Representatives, September 12, 1985.

[170] Examples include Article 8 of our Mutual Assistance Treaty with Colombia, permitting extradition to the United States of foreign nationals who commit offenses occurring in both the United States and Colombia with the intent that the offense be completed here; Article 12 of our Convention with Morocco on Mutual Assistance, which permits forfeiture of drug related assets in the country in which they are found; and Article 18 of the Treaty with the Italian Republic on Mutual Assistance in Criminal Matters, providing for emergency freezing of assets subject to forfeiture.

The Department of State, in conjunction with the Department of Defense, should continue its program of expanded economic assistance with emphasis on assisting those foreign governments making concerted efforts to control their drug problems. At the same time, a recognition that drug trafficking has become a national security issue[171] should lead to the availability and use of security assistance funds. The effectiveness of such assistance is, of course, dependent upon the political will of the host government. To encourage this, the United States should raise the drug issue to the highest level possible in bilateral relations with producer and trafficker nations. Similarly, the United States should raise the drug issue in terms of international security with its industrialized allies. This should occur not only in the United Nations, but also on a bilateral and multilateral basis. This would provide incentive in urging those nations to increase their assistance and cooperation within the region and in urging those nations to raise the issue as a high priority in their bilateral relations with the producer and trafficking nations.

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[171] See supra, at 331 and 359-365. See also General Gorman, supra note 98. This Commission is aware of current budgetary realities. There appear to be opportunities in this area which could produce dramatic results from a relatively small investment of funds.

In addition to these efforts to reduce the supply of drugs, international efforts to reduce the demand for drugs are an important component of U.S. strategy. The United States should, therefore, continue to help producer nations develop prevention and education programs aimed at drug abuse within the producer and trafficker nations.

Indications are overwhelming that the world community in general realizes the dangers inherent in drug use. In the past, many nations regarded drug abuse as aberrational social behavior, and relegated governmental reaction, if there was any at all, to law enforcement or social/health ministeries. As international awareness of the actual nature and scope of the threat of drug abuse increases, however, nations are placing the issue where it belongs: within the realm of national security.

SOURCE COUNTRY CROP CONTROL

Strategies to control drug trafficking and drug abuse in the United States have traditionally included measures designed to eliminate illicit drug supplies at their source. These "source country eradication" measures, primarily the manual elimination or uprooting of illicit drug crops and the use of herbicides to kill illicit plants, remain a central focus of this country's anti-drug efforts. The 1984 National Strategy for the Prevention of Drug Abuse and Drug Trafficking clearly states U.S. policy in this regard:

> Fundamental to the overall supply reduction effort is eliminating illegal drugs as close to their source as possible. The major gains will be realized in the longer term reduction in the availability of illicit drugs.[172]

Since 1978 the Department of State's Bureau of International Narcotics Matters (BINM) has had primary responsibility for overseeing and implementing foreign drug production control efforts. BINM provides bilateral assistance for crop control and interdiction programs in drug source countries in the form of equipment, training and technical advisory services. BINM's stated objective is:

> to control production simultaneously in all key sectors of illicit drugs exported to the United States so that significant and lasting reductions in availability are achieved . . . . Preventing cultivation and destroying illicit narcotics at their source will prove to be the most effective means of reducing availability. . . . BINM's first priority is on crop control-government bans on cultivation production, enforced by manual or chemical crop eradication.[173]

In a successful crop control system drugs would be stopped at their source, thereby alleviating the "chain reaction" associated with drug trafficking and drug abuse in this country. In fact, crop reduction efforts have at best enjoyed limited success. Despite the fact that nearly all drug producing and transit countries are signatories to a 1961 agreement that restricts production and distribution of certain drugs to only medical and scientific uses,[174] drug production has escalated in most source countries in the past 20 years. Increased production has resulted in decreased prices and wider availability of most illicit drugs in the United States. Accordingly, domestic consumption of many drugs has increased.

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[172] 1984 National Strategy supra note 35, at 67.

[173] Bureau of International Narcotics Matters of the U.S. Department of Statement, International Narcotics Control Strategy Report 1985, at 15.

The effectiveness of efforts to control illicit drug crops in source countries is inherently limited. First, many source country governments are not motivated to reduce crop production, either because the profits obtained from the illicit crops are essential to the economic and/or political stability of the country, or because they view drug consumption as an exclusively

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[174] Single Convention on Narcotic Drugs, March 30, 1961, 18 U.S.T. 1407, T.I.A.S. No. 6298, 520 U.N.T.S. 204 ; Convention on Psychotropic Substances, Feb. 21, 1971, 32 U.S.T. 543 , T.I.A.S. No. 9725.

American problem.[175] In addition, many drugs that are illegal in the United States are traditionally consumed in milder forms by source country natives and are viewed as necessities of life or an essential part of their culture.[176]

Secondly, in many cases farmers do not have an easily available alternative crop. In any case, an illicit drug crop can provide a farmer with far more income than any legitimate crop and is therefore likely to be selected above any other crop for cultivation.[177]

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[175] Bolivia, for example, produced 49,200 metric tons of coca and coca base in 1984. Despite the fact that Bolivia received $37.8 million in U.S. assistance and $26.6 million in multilateral assistance in 1984, that country did not eradicate a single plant during the year. International Narcotics Control Report: Hearing before the Subcomm. on Children, Family, Drugs, and Alcoholism of the Senate Comm. on Labor and Human Resources, 99th Cong., 1st Sess. 2-5 (1985). Bolivia's trade in cocaine and marijuana was valued at approximately $1 billion in 1982, the equivalent of about one-fourth of that coiuntry's GNP. See International Narcotics Policy: Hearing before the Select Comm. on Narcotics Abuse and Control, 98th Cong., 1st Sess. 42 (1983) (hereinafter cited as International Narcotics Policy Hearing).

[176] Coca leaves are believed to have been used for ritual purposes since prehistoric times; peasant populations in traditional growing areas still chew the leaves and grow crops for personal consumption. D. CiCarlo, International Initiatives to Control Coca Production and Cocaine Trafficking, Drug Enforcement, Fall 1982, at 6-8.

[177] Marijuana field workers, for example, earn about $7.50 a day in Colombia compared to about $3 per day for work in agriculture or cattle raising. A Bolivian farmer can sell 250-500 kilograms of coca leaf for $200 to $500, the equivalent of a year's salary in other crop cultivations. International Narcotics Policy Hearing, supra note 175 at 42.

Third, the governments in many producing areas are weak and do not exert control over growers. The Thai and Burmese governments have long been fighting insurgent groups in the Northwest Frontier Provinces, where most of the Golden Triangle opium is grown. The Peruvian government has had little effective control in remote coca producing regions controlled by that country's Shining Path Guerillas. Even where governments aggressively pursue crop eradication programs, difficulties are sometimes overwhelming.[178]

Fourth, some major source countries are controlled by governments hostile to the United States, who while adopting policies to reduce domestic consumption, have no hesitation about importation of illicit drugs to the United States.[179] Because many source country governments are politically and economically unstable, United States diplomatic relations with even nonhostile source country governments are often very complex.[180]

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[178] Crop eradicators have been the victims of trafficking organizations in Mexico and Peru. Twenty-two eradicators were murdered in Mexico in 1985; 19 were murdered in Peru the previous year.

[179] See discussion regarding complicit governments supra Chapter 3.

[180] U.S. relations with the Turks and Caicos Islands and with the Bahamas serve as an example. See discussion of corrupt governments supra Chapter 3.

Finally, and perhaps most importantly, the set of source countries is not fixed.[181] When a crop is successfully reduced in one country, production begins or increases in another country. New producers constantly emerge. This shifting has been observed repeatedly throughout the history of source country control efforts, even where the United States has claimed major crop eradication successes. This has been the most serious obstacle to total crop reduction efforts.[182]

U.S. and Mexican efforts provide an example. The crop eradication program conducted in the mid-1970's in Mexico is often cited as a successful model. Through the program, the United States supplied equipment, herbicide and funds for the eradication of opium poppies, primarily in Northern Mexico. While Mexican heroin production declined after the program's implementation, heroin production in and export from the Golden Triangle and the Golden Crescent accelerated, and within five years, total heroin available in the United States reached levels equal to those attained before the Mexican eradication program. Mexican heroin production has increased every year since 1980, and in 1984 that country provided an estimated 21 percent of the total U.S. supply.

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[181] Mexican production initally accelerated in a shift caused by successful U.S.-funded crop eradication programs in Turkey. Id. at 87-88.

[182] Reuter, Eternal Hope: America's Quest for Narcotics Control, The Public Interest, Spring 1985, at 79.

Despite the limitations of source country control programs, the efforts to reduce international illicit drug crops are essential to the overall U.S. drug strategy. Implemented selectively and judiciously, crop control programs could effectively reduce the availability of targeted illicit drugs in the United States, if only on a temporary basis. As viewed by the Select Committee on Narcotics,

> Effective action in relatively few countries, against the production and trafficking of opium, heroin, coca, cocaine, marijuana and hashish would have a great impact on the drug abuse problem in the United States by dramatically curtailing supplies available to users and potential users . . . .[183]

The United States, through the Department of State, should focus crop control efforts in those countries where political and economic climates will make the success of crop eradication programs probable. Particular crop control opportunities could best be determined if the State Department established a cadre of professional drug officers. Currently, international drug programs are often managed by contract personnel or by Foreign Service Officers not especially interested in drug issues. Narcotics Assistance Unit positions within the Foreign Service often remain unfilled for long periods of time because Foreign Service Officers often view them as a detriment to their careers. The absence of a specialized drug group within the Foreign

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[183] 1984 Annual Report, supra note 20, at 17.

Service structure thus impacts negatively on the overall international drug effort. The Department of State should recognize Narcotics Assistance Unit positions as priority assignments, and integrate them into the career advancement structure.

BINM should also examine the possibility of introducing source country farmers to more imaginative and feasible alternatives to illicit drug cultivation. The available options are currently limited to cultivating licit replacement crops but could possibly include the mining of indigenous minerals and the introduction of light industry to a traditional growing region.

Finally, the importance of international crop controls in the context of the overall drug reduction strategy should be reevaluated. The limitations inherent in these programs, the majority of which are beyond the control of the United States, make them a less likely success than other strategies discussed elsewhere in this report. In addition, the problems associated with international controls, most notably the relentless shifting of drug crop cultivations to non-targeted countries, underscores the ultimate importance of reducing the demand for drugs in this country. History has shown that as long as consumer demand for an illicit drug is strong, some country, somewhere, will become a source country.

CHAPTER VII: REDUCING THE DEMAND FOR DRUGS

THE LIMITATIONS OF TACTICS AFFECTING SUPPLY

Traditionally, efforts to reduce the trafficking and abuse of illicit drugs in this country have been based on the theory that significant reductions of drug supplies would lead to equal reductions in drug-related problems. While this seems plausible, a review of the 75-year history of these efforts reveals that they have not reduced social, economic or crime problems related to drugs.[1] Despite continuing expressions of determination, America's war on drugs seems nowhere close to success. Now more than ever, drugs present problems of vast proportions.

This does not suggest that efforts to reduce supply, such as crop eradication, border interdiction, and prosecution, have failed. To the contrary, they have achieved a measure of success. In 1983, for example, authorities estimated that approximately 10 percent of the drugs destined for illicit markets were interdicted.[2] Crop eradication programs were significantly expanded in Colombia, where most of the world's cocaine is processed and nearly one-half of the marijuana consumed in the

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[1] The Commission dates the history of drug enforcement efforts from 1909, when the "Act to Prohibit the Importation and Use of Opium for Other Than Medicinal Purposes" was passed. See discussion supra Chapter 4.

[2] Comptroller General, Report to Congress: Federal Drug Interdiction Efforts Need Strong Central Oversight 10 (GAO/GGD-83-52) (June 13, 1983).

United States is grown.[3] In addition, indictments and convictions of some of the world's most notorious traffickers have been obtained in recent years.[4]

Despite these efforts, American consumption of cocaine increased an estimated 12 percent and dangerous drug use increased an estimated 15 percent between 1983 and 1984.[5] Cocaine, heroin, amphetamine, and methamphetamine-related deaths increased, as did cocaine, PCP, and methamphetamine-related emergency room visits.[6]

In short, strategies to reduce supply are "working" by some standards, but only to a limited degree.

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[3] See discussion supra at 83 and 117-121.

[4] See discussion supra at 61-62; 85-86; 90-91; 105-108; and 131-132.

[5] The National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate 1984, at 8 (hereinafter cited as 1984 Narcotics Estimate).

[6] Id at 24, 38, 49.

Although some inherent factors limit the effectiveness of these tactics,[7] the overwhelming and continuing demand for illicit drugs among Americans is the primary cause of their limited success. Millions want illicit drugs and are willing to violate the law, spend billions of dollars, and in many cases risk their lives to obtain them.

SUPPLY VERSUS DEMAND

Although the supply of and demand for drugs have often been considered separate issues, by both the public and private sectors, they are in fact inseparable parts of a single problem. The success of supply efforts are related to commitments made to reduce the demand for drugs through drug abuse education, treatment, research, vigorous enforcement of drug abuse laws, and effective sentencing. Drug supply and demand operate in an interrelated and dynamic manner. The strategies employed to limit each should be similarly connected.

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[7] These factors include the fact that source country crop eradication or substitution efforts often fail in countries whose governments lack the resolve or power to effectuate these programs. See discussion supra 391 ff. The constantly changing patterns of drug trafficking compound the problem. Interdicting drugs is extremely difficult because of the vastness of U.S. borders, the constantly changing nature of drug smuggling methods and routes, and the ease with which most drugs, particularly cocaine and heroin, are concealed. For example, five kilograms of heroin valued at more than one million dollars on the wholesale market, can fit into a shoebox. (According to the Drug Enforcement Administration, one kilogram of heroin can fit in a space of 58-60 cubic inches.) Further, interdiction does not reach many of the most widely abused dangerous drugs, such as PCP and methamphetamine, which are produced in domestic clandestine laboratories. 1984 Narcotics Estimate, supra note 5, at 37.

The national fight against illicit drugs relies on two fundamental strategies: organized crime policy and drug abuse policy. Organized crime policy targets specific criminal groups and seeks to destroy those already in existence and prevent the emergence of new ones. In contrast, drug abuse policy attempts to reduce drug use and its associated adverse effects. Theoretically, organized crime policy and drug abuse policy can conflict.[8] Reducing the demand for drugs advances the goals of both organized crime policy and drug abuse policy. A significantly smaller drug market, which would likely result from a substantially reduced demand for drugs, would attack organized crime groups by limiting the huge profits currently available in drug trafficking, while simultaneously reducing the number of drug users, the goal of drug abuse policy.

A clear example of the relationship of supply and demand is provided by the case of heroin trafficker Cecily Lermusiaux, who with several associates, moved heroin into an area of Las Vegas where its use among "middle to high-class whites" was previously unknown. In a scheme which began with the distribution of free samples of heroin, Lermusiaux's independent heroin business generated a profit of several million dollars in approximately six years.[9]

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[8] See Mark H. Moore, Drug Policy and Organized Crime (paper prepared for the President's Commission on Organized Crime, October 1985) (Appendix G).

The demand for drugs is also widely recognized as the fuel that the illicit drug industry needs to operate. According to Colombian President Belisario Bentancur:

> In the world war against narcotics, we need the commitment of the consumer nations to attack the traffic with the same vigor we have shown. We can make all the sacrifices possible, but if there is enormous demand, production will never be completely eradicated.[10]

This sentiment has been echoed by the other side of the law. Carlos Lehder, who heads one of Colombia's most notorious cocaine cartels, sees the American demand for drugs as the driving force behind the "bonanza" of drug trafficking:

> The demand for drugs in the United States is so great that the producer countries like Colombia play a really tiny role compared to the total consumption of the United States.[11]

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[9] Hearing V: Organized Crime and Heroin Trafficking, before the President's Commission on Organized Crime 176 (Feb. 1985) (Testimony of Cecily Lermusiaux).

[10] Latins Push Belated War on Cocaine, Los Angeles Times, Dec. 1, 1985, at 1.

[11] Translation of an interview with Carlos Lehder conducted by Spanish Television.

TACTICS TO REDUCE DEMAND

Efforts to reduce demand are not hampered by international political complications, or other factors that limit the effectiveness of tactics to reduce supply.[12] This Commission is of the opinion that since reducing demand is the single policy option pursuable entirely within our own borders, it deserves greater attention.

More successful tactics to reduce demand may in the long-run decrease the need for current high levels of funding for approaches to reduce supply. A significant reduction in the demand for drugs as a complement to aggressive enforcement efforts is likely to make drug trafficking less lucrative for organized crime and thus prompt many organized crime groups to drop out of the drug business.[13] According to analyst Mark Kleiman:

> Demand reduction is clearly the strategy of choice with respect to its effects on organized crime . . . anything that tends to depress demand will reduce both trafficking-related ancillary crime and the level of drug enforcement

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[12] See discussion supra Chapter 6.

[13] For a discussion of the effects of law enforcement on organized crime groups, see Mark H. Moore, supra note 8.

> resources needed to attain any given level of reduction in drug consumption.[14]

Skeptics have argued that past tactics to reduce demand have not been successful. However, the history of drug abuse prevention and treatment programs has been relatively short. It was not until the upsurge of drug use in the 1960's that these programs developed. Some early prevention approaches were ill-conceived. For example, they often presented information about drugs without persuasive arguments to deter their use, and other programs used exaggerated information.[15] Such programs have been criticized for unintentionally encouraging experimentation with drugs or squandering the credibility of anti-drug information.[16] The most recent and effective drug abuse education and prevention programs focus on the psychological and sociological factors that contribute to the onset of drug use.[17] Drug education programs must be continually evaluated and improved to keep pace with changing drug abuse patterns.

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[14] Mark Kleiman, Drug Enforcement and Organized Crime, in The Politics and Economics of Organized Crime 67, 86 (H. E. Alexander & G. E. Caiden ed. 1985).

[15] J. M. Polich, P. L. Ellickson, P. Reuter, and J. P. Kahan, Strategies for Controlling Adolescent Drug Use 135 (The Rand Corporation, Feb. 1984).

[16] What Is Our Drug Problem, Harper's Magazine 5 (Dec. 1985).

In a model program, the National Institute on Drug Abuse (NIDA) used the strategy of the anti-smoking campaigns of the late 1970's, which many feel were effective,[18] to develop its "Just Say No" campaign against drug use which recognizes the impact of social pressure. NIDA seeks to show adolescents through a music video, television commercials, and other media that they can turn down drugs by simply saying "no" to them.

While it is difficult to measure precisely the effectiveness of such anti-drug advertising, it is clear that the media can help shape attitudes. Just as beliefs about cigarette smoking have changed in recent years, so too can attitudes about drugs.

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[17] Milton F. Shore, Correlates and Concepts: Are We Chasing Our Tails? Etiology of Drug Abuse 127, 128 (NIDA Research Monograph 56, 1985). Many of these programs are based on the anti-smoking campaigns of the 1970's and 1980's because it has been found that many of the same factors which lead to cigarette smoking also contribute to drug use. Polich *et al.*, *supra* note 14, at 152. These efforts employ the "social pressures model" of drug prevention to teach adolescents how to resist peer and other social pressures to smoke cigarettes and to change attitudes about smoking. Today these efforts are considered a success. After reviewing several studies of anti-smoking campaigns, the Rand Corporation has concluded,

> These studies provide cumulative evidence that programs based on the social pressures model help reduce the smoking onset rate among adolescents.

Id. at 149.

[18] Polich *et al*, *supra* note 15, at 152.

Anti-drug advertising has an advantage over the anti-smoking campaigns: drug dealers cannot openly advertise their product. According to the New York advertising firm of Trout and Ries,

> Unlike cigarette manufacturers, drug producers and sellers cannot use advertising to promote a a fashionable image for their drugs. Quite the opposite, the government can use advertising to make drugs less and less fashionable to use. This, if America runs true to form, will dramatically reduce demand. When it's 'out' in America, it doesn't sell.[19]

Reducing the demand for drugs requires a long-term commitment because it takes time to change attitudes. This commitment must be made by Federal, State, and local governments and the private sector. Each must unequivocally reassert that any and all illicit drug use is unacceptable in light of the effects of drugs on individuals, families, communities, and governments. It is only in this context that a war against drugs that seeks to limit both the supply of and demand for drugs can be effective.

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[19] Trout and Ries Advertising Agency, A Way to Decrease the Demand for Drugs (paper prepared for the President's Commission on Organized Crime, Oct. 1, 1985) (Appendix G).

FEDERAL GOVERNMENT

Federal Priorities

Three of the five elements of the current National Strategy for Prevention of Drug Abuse and Drug Trafficking are directed to reduction of demand: drug abuse prevention, medical detoxification and treatment, and research.[20]

The importance of reducing demand has, in addition, been, publicly acknowledged by leading law enforcement officials. According to Attorney General Edwin Meese III, for example:

> All the enforcement efforts that we can try in this country, all the police agencies in this nation and worldwide will never be able to stem the supply of drugs in this nation until we have first decreased the number of users and have decreased the demand for these drugs.[21]

John Lawn, administrator of the Drug Enforcement Administration (DEA), concurs:

> Were we [DEA] to increase dramatically in size, the drug problem would continue to exist until

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[20] White House Drug Abuse Policy Office, 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking (hereinafter cited as 1984 National Strategy). The other two elements of the strategy are drug law enforcement and international cooperation to control narcotics.

[21] Associated Press, Wire Story, Aug. 7, 1985.

we could do something about demand reduction.[22]

While the importance of strategies to reduce demand has been acknowledged, it is reduction of supply that has consumed the bulk of the Federal drug abuse budget (See Figures 1 and 3). This may be due, in part, to the fact that certain enforcement operations are inherently more expensive, and they are exclusively a Federal function. In addition, primary responsibility for developing and maintaining programs to reduce demand has been shifted to the States and the private sector.[23]

The concept of our current National Strategy, assigning complementary roles to the Federal government, on the one hand, and State and local governments and the private sector, on the other, is commendable for its recognition of the unique roles of each component. However, the adoption of this coordinated approach carries with it the responsibility for ensuring that the components perform in a truly coordinated and complementary fashion. There is insufficient evidence today that this responsibility is being met.[24] Moreover, in precisely the same way that approaches to reduce supply recognize a unique Federal capability, there are certain functions in the area of demand that, by their nature, can only be performed by the Federal government. The Federal government's exclusive role in reducing the demand for drugs includes providing national coordination in the conduct of research, gathering nationwide data, and developing and desseminating standards for drug prevention and treatment programs across the country.

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[22] Drug Enforcement Administration, Drug Enforcement 4 (Summer 1985).

[23] 1984 National Strategy, supra note 20, at 5. See also discussion supra at 260-263.

[24] See e.g. discussion infra at 423-425.

Current budgetary figures reflect the emphasis on drug law enforcement. While programs to reduce demand at one time received the larger share of the Federal budget, the focus on enforcement has increased dramatically during the last decade (See Figures 1 and 2). For example, between fiscal year 82 and 86, Federal funding for drug abuse prevention has decreased by 5 percent, while Federal funding for drug law enforcement has increase by 70 percent.[25] For fiscal year 1986 Federal expenditures on drug law enforcement constitute 84 percent of the total Federal drug abuse budget outlay of $1.7 billion.[26] Interdiction alone consumes 38 percent of this budget. In the same year Federal funding for drug abuse prevention constitutes

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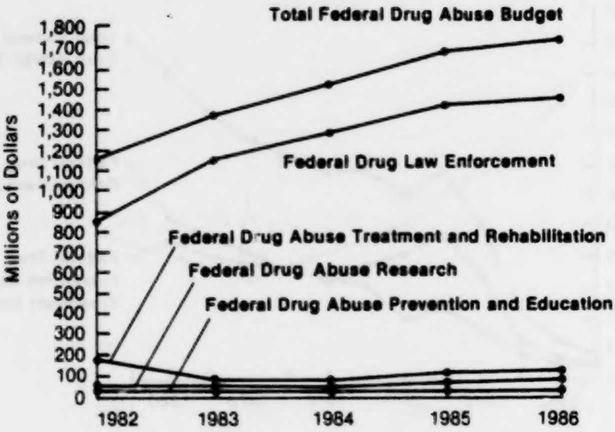
[25] These figures are not adjusted for inflation. According to a June 1985 report by the General Accounting Office the rate of inflation between 1981 and 1985 was 21.6 percent. General Accounting Office, Reported Federal Drug Abuse Expenditures - Fiscal Years 1981 to 1985 (June 1985).

[26] Federal drug abuse budget figures are derived from a "Federal Drug Abuse Budget Summary," prepared by the Drug Abuse Policy Office. Appendix D. Percentages presented are based on budget outlays, and percentages based on budget authority are substantially similar.

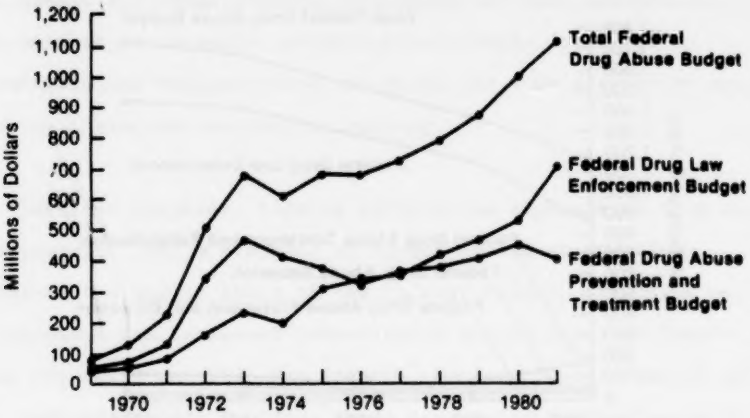
Federal Drug Abuse Budget Outlays, 1982-1986



Source: Working Paper, *Federal Drug Abuse Budget Summary*. White House Drug Abuse Policy Office.
Figures for budget authority are substantially similar.

Figure 1

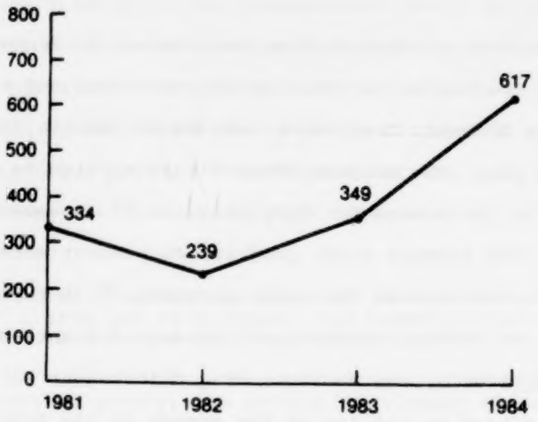
Federal Drug Abuse Budget Outlays, 1969-1981



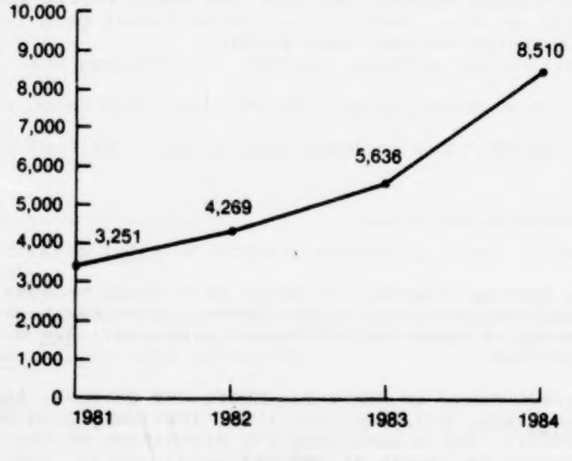
Data Source: White House Drug Abuse Policy Office. *National Strategies,* 1973-1984.

Figure 2

Cocaine Related Deaths, 1981-1984



Cocaine Related Emergency Room-Visits, 1981-1984



Data Source: *1984 Narcotics Intelligence Estimate.* National Narcotics Intelligence Consumers Committee.

Figure 3

one percent, treatment and rehabilitation 6 percent, and research 4 percent of the total Federal drug abuse budget.[27]

In addition to this funding the Federal government provides funding to the States for drug abuse prevention and treatment through the Alcohol, Drug Abuse, and Mental Health Block Grants. For fiscal year 1986 between $65 and $244 million is made available to the States for drug programs.[28] However, prior to 1981 under the formula grant program, 40 percent more funds were available to the States for these purposes.[29] A thorough review of the current budgetary allotments for anti-drug efforts, now contemplated by the National Drug Enforcement Policy Board, should be placed at the top of the agenda of the Board immediately. This Commission concludes that such a review will indicate that greater Federal resources should be devoted to programs to reduce demand, and that the Board should pursue appropriate action without hesitation.

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[27] Id.

[28] Id. The funding figures are given as a range because the States are not required to report to the Federal government precisely how much money is spent for different purposes. See discussion supra at 263-264.

[29] House Select Comm. on Narcotics Abuse and Control, Annual Report for the Year 1984, H.R. Rep. No. 1199, 98th Cong., 2d Sess. 46 (Jan. 3, 1985). For a more complete discussion of the block and formula grants, see supra at 260-263.

Asset Forfeiture

Expanded efforts to reduce demand would, of course, require additional funding at all levels.[30] A particularly promising source of such funding is the considerable amount of money and property obtained annually through forfeiture and seized by law enforcement officials. In 1984 Federal agencies obtained an estimated $400 to 450 million through the forfeiture and seizure of drug traffickers assets.[31] Rudolph Guiliani, U.S. Attorney for the Southern District of New York, observes:

> The drug dealers are just about paying for the drug law enforcement, and hopefully we can get them to pay for drug education.[32]

Under current policy, the Federal government channels all seized and forfeited assets into Federal, State, and local law enforcement agencies and the Department of Justice Assets Forfeiture Fund. Presently, no portion of these funds is used for Federal drug demand reduction programs, such as prevention, treatment, and research.[33] However, pending legislation is being considered that would direct use of portions of the Assets Forfeiture Fund for drug abuse prevention and treatment programs.[34] A portion of the Federal government's asset forfeiture fund derived from drug cases should be devoted to programs to reduce demand in whatever proportion is indicated by the Policy Board's budgetary review. Funding to reduce demand should include a responsible contribution to the States for their own programs in this area. However, any funding directed to the States should be made contingent upon their vigorous pursuit of such programs, and after a reasonable grace period, funding should be denied to any State failing this requirement. Failure to enact State electronic surveillance measures and asset forfeiture provisions, with the proceeds thereof directed to anti-drug programs, should constitute per se failure.

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[30] *See* discussion *infra* at 430-431 regarding asset forfeiture at the State level.

[31] Wash. Times, Sept. 19, at A1. Efforts to obtain specific data from appropriate Federal sources were unsuccessful because of inconsistencies in data gathering.

[32] "Cocaine: Hitting Home," Report aired by the Public Broadcasting System (Oct. 14, 1985).

[33] 50 Fed. Reg. 24,052 (June 7, 1985).

Research

Because data concerning drug abuse are in many instances relatively incomplete, and in all cases, subject to change based on new discoveries, continuing research is a fundamental component of any drug strategy. Recent discoveries concerning cocaine provide an example. The 1967 President's Commission on Law Enforcement and Administration of Justice reported that cocaine did not "create tolerance or physical dependence;"[35] however, research during the 1980's showed that cocaine does, in fact, create tolerance and some argue, physical dependence.[36] Despite this increased understanding about cocaine, many experts, such as Dr. Arnold Washton, argue that research about the effects of cocaine is still in its "infancy."[37]

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[34] See, e.g., S. 1583, The Comprehensive Drug Law Enforcement, Prevention and Treatment Act of 1985; S. 668, bill to amend the Comprehensive Forfeiture Act of 1984; H.R. 273, Drug Abuse Prevention, Treatment and Rehabilitation Act of 1985; H.R. 1193, bill to amend section 524 of title 28 of the United States Code; and H.R. 2447, bill to amend the Comprehensive Forfeiture Act of 1984.

Continuing research is required not only by the complex nature of drugs and their effects on the human mind and body, but also by the constantly shifting patterns of drug abuse. While heroin has traditionally been the most frequently encountered drug of abuse among individuals in treatment programs, cocaine now follows closely behind and has, in fact, overtaken heroin as the primary drug of abuse by those in treatment in 18 States.[38] While requests for treatment by cocaine users are estimated to have increased by as much as 600 percent in the last three years,[39] research about cocaine and its effects has not kept pace with this growing problem.[40] The development of new drugs, such as controlled substance analogs, presents another compelling need for continuing research.[41]

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[35] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* 213 (1967).

[36] Sidney Cohen, *Reinforcement and Rapid Delivery Systems: Understanding Adverse Consequences of Cocaine*, Cocaine Use in America: Epidemiologic and Clinical Perspectives 151, (NIDA Research Monograph 61, 1985); R. T. Jones, *The Pharmacology of Cocaine*, Cocaine: Pharmacology, Effects, and Treatment of Abuse 34, 47 (NIDA Research Monograph 50, 1984).

[37] *Hearing IV: Organized Crime and Cocaine Trafficking, before the President's Commission on Organized Crime* 61 (Nov. 27, 1984) (testimony of Dr. Arnold Washton, Director of Substance Abuse Research and Treatment, Regeant Hospital, New York City).

[38] National Association of State Alcohol and Drug Abuse Directors, Inc., *State Resources and Services Related to Alcohol and Drug Abuse Problems: An Analysis of State Alcohol and Drug Profile Data - FY 1984* 37 (April 1984).

Data Collection and Dissemination

As part of its research responsibilities, NIDA supports two continuing epidemiological surveys, the National Household Survey on Drug Abuse and the High School Senior Survey. While these two surveys provide valuable information about the extent of drug use, neither NIDA nor any other agency systematically collects or disseminates information about the thousands of drug abuse programs.[42]

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[39] The Cocaine Abuse Problem in the U.S.: Special Hearing Before the House Select Comm. on Narcotics Abuse and Control, 99th Cong., 1st Sess. (July 16, 1985) (prepared statement by Dr. Arnold M. Washton).

[40] F. H. Garvin & H. D. Kleber, Cocaine Use in a Treatment Population: Patterns and Diagnostic Distinctions, Cocaine Use in America: Epidemiologic and Clinical Perspectives 182 (NIDA Research Monograph 61, 1985).

[41] Frank Monastero, Recommendations for the Regulation of Selected Precursor Chemicals and Controlled Substance Analogs, (paper prepared by Frank Monastero for the President's Commission on Organized Crime, Oct. 1, 1985) (Appendix G).

[42] National Association of State Alcohol and Drug Abuse Directors, Inc., *supra* note 37, at i. Twenty-two percent ($308 million) of funding for alcohol and drug treatment and prevention programs was provided by the private sector in fiscal year 1984.

State governments, which disbursed 46 percent ($642.5 million) of the funding for alcohol and drug abuse prevention and treatment services in fiscal year 1984,[43] do not systematically report to the Federal government about these programs. This lack of data is due primarily to the absence of any statutory requirement for such reporting, and is a major obstacle to effective drug policy planning. The States should be required to report to the National Institute on Drug Abuse information about their prevention and treatment programs. With this information, and reports obtained from private programs, NIDA will be better able to identify the best prevention and treatment programs and to develop and disseminate standards and guidelines for such programs to the States. The States should, in turn, provide this information to all groups engaged in prevention, treatment, and related research.

Guidelines

Because the Federal government does not systematically collect and evaluate information about drug abuse prevention and treatment programs, it cannot develop substantive guidelines for such efforts. The history of drug abuse prevention has demonstrated that certain approaches are considerably more effective than others. Some have even unwittingly encouraged experimentation with drugs. As an increasing number of school and community-based prevention programs are created, the need for guidelines for drug abuse programs is particularly acute. Officials at NIDA acknowledge that many programs use outdated factual information and philosophies; however, the Federal government is in a unique position to establish and disseminate such guidelines to improve both State and private sector drug abuse programs. Its current failure to do so is a major deficiency in the campaign against drug abuse.

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[43] *Id*. at i.

In addition to contributions to reducing the demand for drugs through research, data collection and dissemination, and the formation of guidelines, the Federal government should provide an example of the unacceptability of drug use. The President should direct the heads of all Federal agencies to formulate immediately clear policy statements, with implementing guidelines, including suitable drug testing, expressing the utter unacceptability of drug use by Federal employees. Government contracts should not be awarded to companies which fail to implement drug programs, including suitable drug testing.

STATE AND LOCAL GOVERNMENTS

State and local governments are key components in the national campaign against drug abuse. Their unique capabilities in the area of reducing demand include State-sponsored media campaigns against drug use, prevention and education programs in the schools, drug treatment programs, more vigorous enforcement of State drug laws, and the inclusion of mandatory treatment or jail sentences, as appropriate, for those individuals convicted of possession of drugs. Because the nature of drug use tends to vary among different geographical areas,[44] State and local governments are best positioned to tailor techniques to reduce demand to suit their particular drug problem.

Drug Education

The public school systems of State and local governments provide an appropriate forum for drug abuse prevention programs.[45] Consistent with identified measures of success, State governments should establish credentialing standards for prevention and treatment programs. They should further require that all elementary, junior high, and high schools within the State include drug abuse prevention programs in their curricula, designed in a manner consistent with such credentialing standards. State funding should be made available to assure the proper training of educators assigned to such programs.

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[44] National Institute on Drug Abuse, Drug Abuse Demand Reduction Activities, (paper prepared for the President's Commission on Organized Crime, Oct. 1, 1985).

[45] Such prevention efforts, like other forms of education, are best begun in the early grades. Polich *et al.*, *supra* note 14, at 162; Arnold Washton, Preventing Drug Abuse: What Can We Do? (paper prepared for the President's Commission on Organized Crime, Oct. 1, 1984) (Appendix G).

Combining prevention programs, clear school policies about the consequences of drug use, increased discipline, and higher academic standards has been demonstrated to be effective. For example, Northside High School in Atlanta, Georgia implemented such a program in the late 1970's in the face of "poor academic performance . . . student apathy . . . discipline problems . . . class cutting and open drug use on campus."[46] By the early 1980's, performance on standardized tests improved significantly and "the use and possession of drugs on campus [had] all but disappeared."[47] Every employer, public and private, and public education institutions at all levels should have clearly-stated policies prohibiting drug use, possession of drugs, or being under the influence of drugs on their premises. The consequences of violating these prohibitions should be clearly explained.

Law Enforcement

A critical part of a national campaign to reduce demand is vigorous enforcement by State and local governments of their laws regarding the possession of controlled substances. The Department of Justice Uniform Crime Report for 1984 states that 552,552 arrests were made in 1984 by State and local police agencies for possession of drugs.[48] Given that in 1984 there were estimated to be 20 million monthly marijuana users, over four million monthly cocaine users, and approximately 520,000 heroin addicts,[49] it is clear that the statistical probability of arrest for possession was and is quite low. This low probability of arrest vitiates in large part whatever deterrent value laws against drug possession and use may have.

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[46] Testimony of Dr. William J. Randolph, Principal of Northside Hig School before the United States Senate Permanent Subcommittee on Investigations, July 1984.

[47] *Id.*

In addition to increasing the likelihood of arrest for drug possession, punishment for those convicted of such offenses can be more effective. Drug users are not "victims" who bear no responsibility for their actions. Imprisonment for recidivists provides both deterrent value and an opportunity to break the cycle of drug use. Uniform and rational sentencing for drug offenses is essential. Such a system should provide a sentence of probation and a fine for a first offense involving possession of drugs.[50] The terms of probation should include a requirement to remain drug-free, to be verified through periodic drug testing.[51] A second offense for possession of drugs should result in a jail sentence or mandatory treatment, if appropriate, or fines or all three. The results of random drug screening should be used in considering parole in cases of both drug possession and trafficking.

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[48] Federal Bureau of Investigation, U.S. Dept. of Justice, *Crime in the United States* 161-163 (1984).

[49] Information provided to the President's Commission on Organized Crime by the Drug Enforcement Administration.

[50] At least one Commissioner differs emphatically on this point, and insists that a first conviction for possession should include a mandatory three-day jail term.

Society's commitment to the unacceptability of illicit drug use is properly expressed in vigorous enforcement of the laws regarding possession of drugs and sentencing of recidivist users to jail terms and mandatory treatment. Such a national commitment is in conflict with various States' relaxation of criminal penalties for the possession of marijuana. Because such measures were based on limited information and popular misinformation about the effects of marijuana, it is appropriate for those States that reduced these penalties during the 1970's to reconsider these laws. This reconsideration is warranted, especially in light of a Federal campaign against marijuana smuggling and the considerable evidence that a substantial share of marijuana trafficking is dominated by organized crime groups, which are both ruthless and involved in smuggling other drugs.[52] In addition, the sale of drug paraphernalia undermines this Nation's anti-drug efforts. States that have not already done so should enact and enforce laws prohibiting the sale of drug paraphernalia.[53]

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[51] Drug testing has been used successfully as a part of probation in some locations already. Albany Georgia is an example. In 1981 Judge Asa D. Kelley added a drug testimony program to an existing "special probation" program in which young convicted felons could choose between a prison term or probation. The terms of probation include random urinalysis and questioning with a polygraph or voice stress analyzer. Researchers have since compared the numbers of burglaries and larcenies with the numbers of probations tested for drug use. For ten consecutive quarters, they found an impressive correlation between levels of drug testing and declines in the rates of burglary/larceny. In fact, the burglary/larceny rate declined up to 20 percent when drug testing exceeded 254 during the previous quarter. When testing dropped below 218, the subsequent quarter's burglary/larceny count increased by as much as 25 percent. In addition, the program has enabled police officers to interrogate probationers to learn about their sources of drugs, leading to arrests in approximately 90% of cases. MacDougald, Research Memorandum EMIT Test Rate/Correlation with Burglary and Larceny Rate, Dougherty Community Crime Reduction Systems, Inc.(1985).

Reducing demand and increased enforcement of drug possession laws will undoubtedly place a greater burden on our courts and will generate the need for more jail cells and treatment facilities.[54] The accompanying increase in expenditures, however, could be met in part with funding extracted from the illicit drug industry itself. All 50 States currently authorize forfeiture of assets in connection with drug trafficking and manufacturing, making available millions of dollars in cash and property each year to State governments.[55]

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[52] According to the National Organization for the Reform of Marijuana laws, as of January 1, 1982 the following States had decriminalized the possession of marijuana: Alaska, California, Colorado, Maine, Minnesota, Mississippi, Nebraska, New York, North Carolina, Ohio, and Oregon.

[53] Currently 38 States and the District of Columbia prohibit the sale of drug paraphernalia; however, enforcement of these laws is typically lax. Model legislation on this issue has been drafted by and can be obtained from the Drug Enforcement Administration, Washington, D. C. According to DEA, the sales of drug paraphernalia are reported at up to three billion dollars annually.

[54] Mark Kleiman, *Allocating Federal Drug Enforcement Resources: The Case of Marijuana* 192 (unpublished paper, May 1985). Kleiman estimates that the cost of building prisons to house 9,000 inmates would be $500 million, with annual operating costs of $200 million.

THE PRIVATE SECTOR: ATTITUDES AND ACTIONS

> The hostess who is certain enough of her own unwillingness to tolerate pot smoking in her home doesn't need to call the cops to keep her guests from lighting up.[56]

> "Great scent. Lousy name."--Advertising Age, a trade journal commenting on "Opium," a popular perfume marketed by Charles of the Ritz, a subsidiary of Squibb Pharmaceuticals.[57]

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[55] Abt Associates, Inc., Use of Forfeiture Sanctions in Drug Cases, (paper prepared for the National Institute of Justice 1985). Forfeited assets can also be used to fund prevention and treatment programs. Currently seven States, California, Illinois, Minnesota, New York, South Carolina, Texas, and Utah, use portions of these assets for such programs. The amount of money available through forfeiture is considerable. For example, in one recent case in Miami, Federal agents seized $11.6 million in cash in connection with a drug trafficking operation. U. S. Agents Seize $11.6 Million in a Drug Probe, Wall Street Journal, Feb. 11, 1986, at 6.

[56] Dr. Mitchell Rosenthal, Winning the War Against Drugs, (paper prepared for the President's Commission on Organized Crime, Oct. 1, 1985) (Appendix G).

[57] Dun's Review 55 (Dec. 1978). A Commission examination of registered trademarks disclosed several products with drug or drug-related names, such as cocaine, coca, opium, and marijuana. These include Cocaine perfume of Southfield, Michigan; Cocaine perfume and clothing of Garland, Texas; Cocaine clothing of New York; Coca pendants and perfume of Miami, Florida; Cocaine II cosmetics of Maple Heights, Ohio; Cocaine board game of Wheat Ridge, Colorado; Opium Clothing of Rego Park, New York; Opium Clothing of Miami, Florida; Opium Den Toiletries of Monroeville, Pennsylvania; Marijuana perfume and cosmetics of Maple Shade, New Jersey; and The Game of Marijuana board game of Miami, Florida.

Drug abuse is fundamentally a social problem, which cannot be solved by the government alone. Federal and State governments can support drug abuse prevention and treatment programs, conduct research, enforce drug laws and provide leadership in the fight against drug abuse and drug trafficking. However, not until public and individual attitudes change will illicit drugs and the organized criminal groups that traffic in them be eliminated. Individuals need not accept drug use in their midst. There is no "right" to use drugs. Government efforts to combat drug trafficking and drug abuse are a vital effort, but they are ultimately only a holding action, while consensus continues to build among individuals concerning the utter unacceptability of drug use.

Despite this growing consensus, a profound disparity exists between principle and practice. Popular entertainment and advertising, sometimes subtle,[58] sometimes not,[59] regularly reflects and even promotes the view that the use of illicit drugs is glamorous, exciting, and sophisticated, or at least harmless and amusing.

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[58] Such sublety can take the form of portraying drug use as an integral and necessary part of sensitivity, creativity, compassion, or courage. Consider, for example, the role of drug use in the movies The Big Chill, Nine to Five, and Terms of Endearment. It can also be conveyed in depictions of drug use as a trival and commonplace social event, to be mastered along with other social graces, as in Annie Hall.

[59] Sublety is not a feature of such overt celebrations of illicit drug use as Up In Smoke or Nice Dreams, nor the week-long trivilization of the effects of controlled substance analogs, popularly known as "designer drugs," found in the nationally-syndicated cartoon strip "Doonesbury" in August 1985. At least one national publication, High Times magazine, makes no pretense of entertaining, but seeks to profit directly as a handbook for illicit drug users, producers, and traffickers.

The illusion that drug use is glamorous is regularly, if somewhat indirectly, reinforced by revelations that drug use is commonplace among celebrities in the sports and entertainment worlds.[60] In August 1985, for example, the New York Times reported cocaine's alleged use by players on virtually every team in the major leagues, prompting the Commissioner of Baseball to declare drug use the "number one" problem facing the game.[61]

It is even possible to find purportedly responsible groups urging not only recognition but acceptance of drug use as a feature of daily life. An article in the January/February 1984 issue of Social Work, the journal of the National Association of Social Workers, prescribes the following for adolescent marijuana use:

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[60] The Commission has noted the occasional reports of drug-related deaths, injuries, and arrests among celebrities, as well as various public confessions by former drug users in public life. Indeed, the Commission's own hearing on the topic of cocaine trafficking featured such testimony. However, it must be acknowledged that with few exceptions, these tragedies and testimonials involved individuals who have been brought to the ends of their ropes by legal or medical catastrophies. These episodes do little to counter the "getting high and doing fine" message implicit in current accounts of the extent of drug use and its acceptance among public figures.

[61] N.Y. Times, Aug. 19, 1985, at A1. Drug-related controversy in major league baseball was followed closely by a similar situation in professional football, reaching all the way to the National Football League's championship contest. It's a Crime, Wash. Post, January 30, 1986, at A24.

> Use should be moderate . . .no more
> than four to five joints per week
> seem advisable.[62]

Such acceptance of drug use may be shared by many who resign themselves to the fact that drug abuse is inevitable. Such a view reflects a failure of will on the part of the American public. American society may view drug use in the abstract as wrong, and many people agree that heroin addicts who commit additional crimes to support their drug habits should be jailed. However, many people react with ambivalence to the drug use in their midst. Even while the United States government spends almost a billion and one-half dollars on drug law enforcement, threatens to cut off foreign aid to drug producing countries, and extradites and imprisons foreign nationals on trafficking charges, we appear to lack the same degree of resolve to hold this country's drug users, as well as those who directly or indirectly promote drug use, accountable for their actions and the consequences thereof.

While attitudes are ultimately an individual matter, actions need not be. It is in combination with others that private citizens have been most effective in combatting drug abuse.[63] As discussed earlier, athletes, entertainers, manufactures, advertisers and media can promote drug use by their individual examples or by favorable portrayals of drug use. However, these elements of society also have the power to shape different public attitudes about drug use by presenting the truth about drugs. The media and entertainment industries should carefully review their portrayals of drug use and its consequences and ensure their accuracy.

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[62] Thomas Edward Smith, Reviewing Adolescent Marijuana Abuse, Social Work, Jan./Feb. 1984, at 17, 19.

Efforts to combat drug abuse can also be successful in the workplace. Many businesses across the country have Employee Assistance Programs (EAP's), which seek to prevent drug abuse at the worksite and which offer treatment and referrals. In addition, many businesses now test employees or prospective employees for drug use. According to a survey of 180 Fortune 500 companies, two-thirds refuse to hire job applicants who fail such tests, 25 percent fire employees and 41 percent require treatment for employees who fail.[64] Drug testing protects businesses, which lose billions of dollars each year in reduced productivity as a result of drug use,[65] employees, and the public. Drug testing in certain "critical positions," such as in the transportation industry, law enforcement, and education is particularly important.[66]

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[63] Private sector initiatives to combat drug use include: The National Coalition for Prevention of Drug and Alcohol Abuse, comprised of 35 private sector organizations representing 15 million members, which seeks to expand drug abuse prevention activities. Member organizations include the American Medical Association, the International Association of Lions Clubs, the National Parent/Teacher Association and others; the National Football League works with the International Association of Chiefs of Police, the Drug Enforcement Administration and the High School Athletic Coaches Association to carry anti-drug messages to 5.5 million student athletes across the country; the Newman Center, a private foundation in Los Angeles, California, offers technical assistance about drugs to the entertainment industry for its portrayals of drug use and provides awards to television writers, producers and directors who present the best shows about drug use; McNeil Pharmaceutical Company sponsors "Pharmacists Against Drug Abuse," a nationwide campaign in which local pharmacists are the focal points in the community for information about drugs; and the National Broadcasting Company sponsored the "Don't Be A Dope" drug abuse awareness campaign, which was aired in 1983 and 1984.

In addition to efforts in the workplace to combat drug abuse, health professionals, such as physicians, nurses, psychologists, and social workers can help identify and treat drug users. However, currently formal training in the diagnosis and treatment of drug abuse is limited.[67] Health professionals should be thoroughly trained to identify and counsel drug abusers.

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[64] *Firms Screen Workers*, USA Today, Nov. 6, 1985, at 1B. A survey by Noel Dunivant and Associates of Raleigh, N.C.

[65] *See* discussion *supra* at 2, n.3.

[66] On January 27, 1986 the U.S. Supreme Court vacated a stay thus allowing drug testing in certain instances for more than 200,000 railroad workers and job applicants for those positions. *Dole v. Railway Labor Executives Association*, A-551 (January 27, *1986*). Mandatory drug testing in the Navy has reportedly reduced the drug abuse rate from 48 percent to three percent in two years. Wash. Times, Dec. 2, 1985, at 1D. The Federal Aviation Administration has approved a plan requiring this country's 14,000 air traffic controllers to submit to annual drug tests. *Many Employers Test Workers For Drug Use*, Wash. Post. Feb. 2, *1986* at A 14. The New York Times and Chicago Tribune have required drug testing of new employees for years. *Id*. The Baltimore Orioles are the first professional baseball team to institute voluntary drug testing. *Id*.

[67] Dr. Arnold Washton, *Preventing Drug Abuse: What Can We Do?*,

Decisions to use or not to use drugs are ultimately derived from values that are best inculcated and reinforced in families, churches, civic organizations, schools and local communities. The efforts of organizations, which seek to help families prevent drug use, such as the National Federation of Parents for Drug-Free Youth, are essential to the fight against drug use and drug trafficking. First Lady Nancy Reagan has made an important contribution to this effort to reduce the demand for drugs. Relying on the task force approach which law enforcement officials have used successfully, parents, churches, schools, civic organizations, and business associations should form community task forces in every community across the country to provide a unified front against drugs.

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supra note 44.

CHAPTER VIII: SUMMARY OF RECOMMENDATIONS

Based on its findings and the extended analysis, found elsewhere in the report, (primarily in Chapters VI and VII), the Commission makes the following recommendations:

GENERAL RECOMMENDATIONS

1. The ultimate goal of the Nation's drug policy is the effective suppression of drug abuse in the United States. While efforts to reduce the supply of drugs in this country, such as interdiction and source country crop controls, indirectly advance this goal, efforts to reduce the demand for drugs can make a more direct contribution. For this reason, the Nation's drug policy must emphasize more strongly efforts to reduce the demand for drugs.

2. Because drug trafficking and abuse are the most serious organized crime problems in America today, they must be addressed at the highest levels of government. Therefore, the National Drug Enforcement Policy Board (Board), under the direction of the Attorney General, is and should continue to be responsible for this country's drug policy. The mandate of the Board should be interpreted, or expanded if necessary, to require the Board to coordinate carefully efforts to reduce both drug demand and

supply to achieve this ultimate goal. The Board should evaluate all programs undertaken pursuant to the national drug strategy in terms of their contribution to this goal. In recognition of the scope of the problem of international drug trafficking and the extended national effort needed to combat it, the Attorney General, as Chairman of the National Drug Enforcement Policy Board, should depart from the current formulation of a National Strategy on an annual basis, directing instead the formulation of a long range national offensive against drug supply and demand, including long term funding proposals. Such a program should include an appropriate role for State and local agencies as a complement to Federal efforts. State and local police agencies should be trained and equipped to perform such a role.

3. The rigorous pursuit of the Nation's drug policy, as proposed in this report, will not undermine its organized crime policy. Indeed, the goals of the two policies substantially overlap and therefore both can and must be implemented simultaneously and aggressively.

4. The cost of this Nation's antidrug efforts can be subsidized to a great extent by the seizure and forfeiture of drug traffickers' assets. That portion of the Federal government's asset forfeiture fund derived from drug cases should be devoted exclusively to anti-drug programs. Such a funding mechanism should be made permanent through law, and the current ceiling of $10 million should be eliminated. In the annual

Congressional appropriations process, these funds should be allocated to participating agencies according to Congressional findings, just as if the funds were appropriated.

5. Because of the international dimensions of drug trafficking, the United Nations, in performance of its leadership role in the international community, should sponsor the drafting and promotion of a model International Controlled Substances Act, identifying each and every drug which is trafficked to the detriment of any single member nation. This model act should be accompanied by a Model Mutual Legal Assistance and Extradition Treaty, embodying the recognition that international drug trafficking is a matter of profound international concern. In the spirit of international cooperation, the Attorney General, as Chairman of the National Drug Enforcement Policy Board, should direct the creation of bilateral working groups, modeled on the present Italian-American Working Group.

INTERDICTION

1. Within the overall structure of the National Drug Enforcement Policy Board (the Board), the Vice President's role as leader and coordinator of interdiction efforts should be recognized, maintained, and strengthened.

2. A proper and realistic goal of our interdiction efforts should be the maintenance of persistent pressure on drug

traffickers, both as a deterrent and as a symbol of national determination. Operational and policy decisions should reflect that measure of success and specifically reject any less realistic or effective goal.

3. Both Congress and the Board should carefully evaluate the technical capabilities and equipment of drug smugglers. To the extent that law enforcement agencies' capabilities and equipment are inferior to those of drug traffickers, immediate steps should be taken to rectify the situation.

4. All Federal agencies having any responsibility for the regulation of air, sea, or land travel into or out of the United States should review their policies and practices and ensure that no purpose other than the promotion of public safety is given priority over the effort to combat drug trafficking. To this end, the proposed "Customs Enforcement Act of 1985" should be enacted promptly.

5. The Policy Board should carefully examine the regulatory practices of the Federal Aviation Administration, particularly in the field of aircraft modification, to determine whether possibilities exist for more aggressive anti-smuggling efforts. In addition, the Policy Board should carefully monitor the design of the Federal Aviation Administration's approach radar system to ensure that interdiction capabilities and opportunities are maximized.

6. Diplomatic initiatives should be pursued immediately to facilitate Customs pursuit of suspected airborne drug traffickers into Mexican air space. Such efforts should be given the highest priority in our bilateral relations with Mexico, including the Western Hemisphere discussions agreed upon between the Presidents of the United States and Mexico on January 3, 1986.

7. The Policy Board should thoroughly evaluate expanded use of Coast Guard aviation capabilities in drug interdiction.

8. Congress should give careful consideration to user fees as a means of supplementing the Coast Guard's budget. Fees should go directly to the Coast Guard's budget rather than the general Treasury.

9. Both the Policy Board and the Department of Defense should continue to examine Navy assistance to Coast Guard interdiction operations, with a view to expanding such assistance whenever and wherever possible. Such expansion should be facilitated by adoption of the broader military view of national security advocated in this report.

10. Monies from the proposed permanent asset forfeiture fund should be made availabe to the Customs Service for the acquisition of necessary equipment, including but not limited to the type of fast patrol boats recently deployed in Operation Blue Lightning.

11. Joint Federal-State-local interdiction operations, such as Operation Blue Lightning, should be refined and used wherever feasible and desirable.

INTELLIGENCE

1. The Policy Board should take all necessary steps to ensure that data concerning all aspects of both drug supply and demand are adequately collected, analyzed, correlated and disseminated.

2. The Federal electronic surveillance statute should be examined and amended to reflect existing technology. Existing State laws should be similarly studied and changed where necessary. Those States still without a statute permitting court-ordered electronic surveillance should immediately enact one, consistent with current technology.

3. The "Mansfield Amendment" to the Foreign Assistance Act of 1961 (22 U.S.C. 2291 (c)(1)) should be repealed in its entirety. The concerns addressed by that legislation should be incorporated in agency guidelines which provide necessary flexibility while embodying the limits of permissible U.S. agency conduct.

4. Data relating to assets forfeited to Federal, State and local jurisdictions should be collected, analyzed, and disseminated by the all source intelligence center discussed elsewhere in this report.

5. Because of the importance of information about individuals in drug treatment programs, the Federal government should again require the States to participate in the Client Oriented Data Acquisition Process.

6. Both the Household Survey on Drug Abuse and the High School Senior Survey should oversample populations thought to be heavy drug users. In addition, because questions about the nature of drug transactions, e.g., the price paid and purity and quantity of the drug purchased, could provide important information for policymakers and enforcement officials, such questions should be added to the Household and High School Senior Surveys.

COMBINED INTELLIGENCE AND INTERDICTION

1. The Policy Board should take immediate steps to ensure that the law enforcement and intelligence communities are thoroughly familiar with each other's needs and capabilities.

2. Every agency involved in the interdiction of drug shipments or the apprehension of drug traffickers should have

ready access to all necessary intelligence gathered in source and transshipment countries. To the extent that this requires expansion or modification of existing practices, the Policy Board should ensure that such change is pursued immediately. In particular, the critical nature of real-time intelligence to effective Customs operations at the border must be recognized, and the Policy Board should take all necessary steps to ensure that, under current Federal organization, such information from all sources is being provided.

3. To the extent that the intelligence community under the current Federal structure needs direction from the highest levels of government concerning aggressive anti-drug actions, including operations against the infrastructure of foreign drug-trafficking organizations, such direction should be provided immediately.

4. The "all-source intelligence and operations center," now being considered by the National Drug Enforcement Policy Board, should be pursued aggressively and expeditiously. It should combine in a physically secure facility the functions now being performed by EPIC and NNBIS, retaining the current Vice Presidential direction and regional structure of the latter for interdiction functions. Ft. Bliss, Texas, and similar locations should be considered as possible sites for the center. Its design, giving due consideration to the protection of civil liberties, should provide specific roles for all pertinent Department of Defense components and for all members of the

intelligence community, to the fullest extent permitted by Executive Order 12333. The design should also incorporate specific foreign intelligence-gathering functions for other U.S. agencies, in order to maximize the acquisition of both strategic and tactical data. Each participating agency should be required to present to the Policy Board its specific operational guidelines for providing time-sensitive data to the center. The center should also include a uniform national system for gathering and analyzing drug-related data on various categories of information, including arrests, seizures, convictions, sentences, forfeitures, emergency room admissions, and deaths. A similar system of compiling and analyzing financial data gathered by all members of the intelligence community, as well as that contained in all financial records now required by law to be kept by any Federal agency, should also be included as an integral component of the center. Both data bases should be compiled and maintained in a fashion that provides reliable, constant, and uniform tracking, retrieval, and compilation for the purposes of charting trends and profiles, as well as support for specific operations whenever possible. Access to all data compiled should be available to appropriate State and local agencies, in addition to Federal components, subject to procedures necessary to ensure the integrity of the information-sharing process.

5. Joint enforcement and intelligence operations by source and transshipment countries should be encouraged, and careful, resourceful analysis should be given to identify means of U.S.

funding of such operations. Consistent with other recommendations in this report, participation in such operations by American components should be promoted.

6. The Department of State should stress to Chiefs of Mission at principal reporting posts and to all other cognizant Departmental personnel the high priority attached to a coordinated narcotics intelligence and interdiction strategy.

7. All necessary steps should be taken to ensure that Consular officers can and do deny U.S. entry visas to individuals suspected of drug trafficking. Subject to the informing agency's safeguards of reliability, information provided by any agency of the United States, without further corroboration, should be sufficient to require such denial under the pertinent statute, 8 U.S.C. §1182 (a)(23). The Policy Board should promptly establish guidelines for similar information-sharing on a government-wide basis.

8. Both Congress and the Executive Branch should closely examine the operations and cost effectiveness of drug-related intelligence-gathering abroad. When and where justified by such an examination, resources available for such operations should be expanded. Particular attention should be paid to the critical need for adequate foreign intelligence by the Customs Service in performing its border interdiction function.

9. Coast Guard officers should be thoroughly integrated into the Defense Attache system.

10. The definition of "national security" now employed by the Joint Chiefs of Staff as their starting point in mission determination is:

> A collective term encompassing both national defense and foreign relations of the United States. Specifically, the condition provided by:
>
> a. a military or defense advantage over any foreign national or group of nations, or
>
> b. a favorable foreign relations position, or
>
> c. a defense posture capable of successfully resisting hostile or destructive action from within or without, overt or covert.

The Joint Chiefs should be instructed by the highest levels of government, through a National Security Decision Directive or by other appropriate means, that "hostile or destructive action from within or without, overt or covert," as used in this definition, shall include the airborne, amphibious, and overland invasion of this country by drug smugglers. This policy is already followed by the intelligence community, pursuant to Executive Order 12333. All Department of Defense and component operational decisions concerning interdiction of drug smugglers should be made accordingly.

11. For the purposes of intelligence-gathering mission planning, the Joint Chiefs of Staff should be given direction from the highest levels of government that the Defense Department's definition of "foreign hostile action" is to be brought into accord with the view expressed in Executive Order 12333, as described in the preceding recommendation.

12. Consistent with the foregoing definitions of "national security" and "foreign hostile action," Department of Defense policies and practices, such as existing interpretations of the Economy Act, 31 U.S.C. §1535, and exemptions to the Posse Comitatus Act, 10 U.S.C. §371 et seq., should be thoroughly re-examined. Unit planning and deployment should be adjusted accordingly.

13. The Posse Comitatus Act, 18 U.S.C. §1385, and its 1981 exemptions, now found at 10 U.S.C. §371 et seq., should be consolidated in Title 18. The consolidated statute should include a statement of purpose reflecting the view of national security advocated here and promoting an accordingly expansive interpretation of the statutory language, subject to such limitations as are necessary to protect civil liberties.

14. The Policy Board, in accordance with Executive Orders 12333 and 12472, and with applicable National Security Decision Directives, if any, should coordinate with appropriate agencies and departments to ensure that a secure and interoperable,

interagency communications capability is available for drug-related intelligence collection and dissemination in support of interdiction and other anti-drug activities. The resources and expertise of the National Security Agency should be fully exploited to this end, and operational and communications security should be given a high priority in the training and operating procedures of all pertinent agencies.

DOMESTIC INVESTIGATIONS AND PROSECUTIONS

1. Domestic drug law enforcement efforts directed at high-level trafficking groups should be supplemented by and integrated with enforcement efforts directed at lower-level trafficking groups and street-level drug activity. Unless the necessary supplementation and integration occur, the enforcement effort at all levels will be undermined.

2. Although the enforcement efforts of Federal and State and local law enforcement agencies cannot and should not be completely independent, these agencies nevertheless have primary areas of responsibility. The Federal law enforcement agencies should concentrate their efforts on infiltrating and disrupting high-level organized crime and other large trafficking organizations. State and local law enforcement agencies on the other hand should focus their resources on street-level drug activity and on smaller and geographically-restricted trafficking organizations.

3. Although Federal, State and local agencies have primary areas of responsibility, the drug problem is a national one that requires extensive and genuine coordination and cooperation among all agencies. Those in charge of the agencies involved in domestic drug law enforcement must constantly instill in their agents the need for such coordination and cooperation, especially with respect to the exchange of drug intelligence. Joint operations, such as Operation Pressure Point, the New York Drug Enforcement Task Force, and the Organized Crime Drug Enforcement Task Force Program, have fostered this required spirit of cooperation and coordination, and they should be undertaken whenever appropriate, provided that they do not interfere with an agency's primary mission.

4. The sophistication of high-level trafficking groups requires an equivalent Federal response. Because of the variety of investigative techniques used by participating Federal agencies and their unique ability to exploit such tools as electronic surveillance, the Racketeer Influenced and Corrupt Organizations Act (RICO), the Continuing Criminal Enterprise statutory provision (CCE), forfeiture, and currency transactions reports, the Organized Crime Drug Enforcement Task Force (OCDETF) Program is the Federal mechanism that is best equipped to respond to and disrupt high-level organized crime trafficking groups. Its operation should be supported strongly and its scope should be expanded wherever feasible and desirable.

5. Because the OCDETF Program has been operational for more than two years, the National Drug Enforcement Policy Board should consider whether a lead Task Force agency should be designated. As an alternative, the U.S. attorneys involved should be given greater policy authority with respect to the participating agencies in order to improve still further the coordination that has been achieved by the consensus-based decision-making approach. If the latter approach is taken, the Board must take steps to ensure uniform policies and priorities are recognized by all United States Attorneys involved.

6. The heads of the agencies participating in the OCDETF Program must continually and unambiguously reiterate their total commitment to the success of the program. One simple way they can do so is to ensure that their agents involved in the Program are not affected adversely in any way with respect to career advancement by their participation therein.

7. The components of Federal domestic law enforcement other than the OCDE Task Forces should focus their resources on organized crime trafficking groups that do not qualify for OCDETF Program treatment and on other large trafficking organizations, which may or may not be multi-jurisdictional.

8. To eliminate jurisdictional disputes between the Federal agencies involved in domestic law enforcement, to avoid duplication of investigative efforts, and to increase the safety

of drug agents, the National Drug Enforcement Policy Board should establish a system whereby agencies would be required to file reports on whom they are investigating. If more than one agency is investigating the same individual, the agencies involved would be required to negotiate and to determine the best way for proceeding with the investigation, subject to uniform Policy Board guidelines. Such a reporting and control system should be incorporated into the "all source intelligence and operations center" recommended elsewhere in this report.

9. It is an appropriate time to consider whether the mission of the Customs Service with respect to drug trafficking should be expanded to include intelligence and law enforcement functions beyond the borders and ports of entry within this country, where appropriate, subject to the lead responsibility of the Drug Enforcement Administration (DEA).

10. DEA should determine which chemicals currently used to manufacture illicit drugs should be subject to reporting requirements or placed in a Schedule established by the Controlled Substances Act. This review should include a consideration of which drugs are most abused, which have the most serious consequences, which precursor chemicals are essential to the production process, and which chemicals could feasibly be regulated. In addition, DEA should identify the resources needed for the computerization, analysis, and follow-up of reports concerning chemicals selected for monitoring.

11. The research and development operations of Federal drug law enforcement agencies should work closely with their field agents to produce the equipment and tools necessary to defeat traffickers. The expertise of the Central Intelligence and National Security Agencies should be called upon to the fullest extent possible and proper in this regard.

12. Although the drug problem is a national one, its immediate effects are felt most at State and local levels. To respond effectively to the drug problem, State and local jurisdictions will have to increase expenditures for such critical resources as prison facilities, increased manpower, and sophisticated equipment.

13. States must provide their law enforcement agencies with certain tools available to their Federal counterparts. Those States, which do not already have such statutes, should consider enacting legislation patterned after the following Federal statutes: Bail Reform Act of 1984; the Racketeer Influenced and Corrupt Organizations (RICO) Act; statutory use and derivative use immunity for witnesses; statutory criminal and civil forfeiture provisions; the Continuing Criminal Enterprise (CCE) statute; Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (electronic surveillance); and the Currency and Foreign Transactions Reporting Act. States should consider adopting statewide grand juries in order to improve their

investigations of drug trafficking organizations, as well as eliminating accomplice corroboration statutes or rules.

FOREIGN ASSISTANCE

1. Because drug trafficking and production are threats of such magnitude to the stability of existing democracies, a primary goal of the United States and its allies should be to enhance the security of drug producing and transshipment regions.

2. As a part of its international responsibilities, the National Drug Enforcement Policy Board should participate in the President's annual decision whether to suspend aid to drug producing or transshipment countries. The Board should examine the drug control efforts made by each foreign nation and make a suitable recommendation to the President for his ultimate decision.

3. The willingness of a country to engage in and actively implement drug-related extradition and mutual assistance treaties should be a primary consideration in the ultimate U.S. policy decision regarding foreign assistance to that country.

4. The Departments of State and Defense should continue their programs of economic and security assistance with emphasis on assisting those foreign governments making concerted efforts to control their drug problems.

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5. The United States should continue to help producer and trafficking nations develop prevention and education programs aimed at drug abuse within these countries.

SOURCE COUNTRY CROP CONTROL

1. In light of restrictions inherent in international crop control efforts, the Board should initiate a thorough cost/benefit analysis of the entire history of those efforts by the United States. If justified by such an analysis, the Department of State, through its Bureau of International Narcotics Matters (BINM), should initiate or intensify crop control and plant eradication programs selectively and judiciously in those countries where the political and economic climates make it probable that crop eradication programs will succeed.

2. The Department of State should establish and present to the Policy Board a specific formula for triggering the cut-off of foreign aid provided for in the "Diplomacy Against Drugs" amendment to the Foreign Assistance Act.

3. Narcotics Assistance Unit positions must be recognized by the State Department as priority Foreign Service assignments. The State Department should establish a select group of professional Narcotics Officers to fill those positions, and

should ensure that those positions are fully integrated into the career advancement structure within the Foreign Service.

4. BINM should expand the range of possibilities under consideration as alternatives to illicit drug cultivation for source country farmers and include such options as mining, petroleum production, and light industry, where feasible.

REDUCING DEMAND FOR DRUGS

1. A thorough review of the current budgetary allotments for anti-drug efforts, now contemplated by the National Drug Enforcement Policy Board, should be placed at the top of the agenda of the Board immediately. If that review indicates that greater Federal resources should be devoted to programs to reduce demand, the Board should pursue appropriate action without hesitation.

2. A portion of the Federal government's asset forfeiture fund, derived from drug cases, should be devoted to programs to reduce demand in whatever proportion is indicated by the review recommended above. Funding to reduce demand should include a responsible contribution to the States for their own programs in this area. However, any funding directed to the States should be made contingent upon their vigorous pursuit of such programs, and after a reasonable grace period, as determined by the Board or by Congress, funding should be denied to any

State failing this requirement. Failure to enact State electronic surveillance measures and asset forfeiture provisions, with the proceeds thereof directed to anti-drug programs, should constitute per se failure.

3. The President should direct the heads of all Federal agencies to formulate immediately clear policy statements, with implementing guidelines, including suitable drug testing programs, expressing the utter unacceptability of drug abuse by Federal employees. State and local governments and leaders in the private sector should support unequivocally a similar policy that any and all use of drugs is unacceptable. Government contracts should not be awarded to companies that fail to implement drug programs, including suitable drug testing. No Federal, State, or local government funds should go directly or indirectly to programs that counsel "responsible" drug use or condone illicit drug use in any way. Laws in certain States which "decriminalized" the possession of marijuana constitute a form of such condonation, and should be reconsidered.

4. States that have not already done so should enact and enforce laws prohibiting the sale of drug paraphernalia.

5. The States should be required to report information about their prevention and treatment programs to the National Institute on Drug Abuse. With this information, and reports obtained from private programs, NIDA will be better able to

identify the best prevention and treatment programs and to develop and disseminate standards and guidelines for such programs to the States. The States should, in turn, provide this information to all groups engaged in prevention, treatment, and related research.

6. Consistent with identified measures of success, State governments should establish credentialing standards for prevention and treatment programs. They should further require that all elementary, junior high, and high schools within the State include drug abuse prevention programs in their curricula, designed in a manner consistent with such credentialing standards. State funding should be made available to assure the proper training of educators assigned to such programs.

7. Every employer, public and private, and public education institutions at all levels should have clearly-stated policies prohibiting drug use, possession of drugs, or being under the influence of drugs on their premises. The consequences of violating these prohibitions should be clearly explained.

8. Government and private sector employers who do not already require drug testing of job applicants and current employees should consider the appropriateness of such a testing program.

9. State and local law enforcement authorities should enforce more vigorously the laws prohibiting possession of drugs, and State legislatures should ensure that enforcement agencies have the necessary resources to do so. Such resources can be funded in large part, if not entirely, through effective asset forfeiture programs.

10. Uniform and rational sentencing for drug offenses is essential. Such a system should provide a sentence of probation and a fine for a first offense involving mere possession of drugs. The terms of probation should include a requirement to remain drug-free, to be verified, if necessary, through periodic drug testing. A second offense for possession of drugs should result in a jail sentence or mandatory treatment or fines or all three.

11. The media and entertainment industries should carefully review their portrayals of drug use and its consequences and ensure their accuracy.

12. Health professionals should be thoroughly trained to identify and counsel drug abusers.

13. Relying on the task force approach which law enforcement officials have used successfully, parents, churches, schools, civic organizations and business associations should form community task forces to provide a unified front against drugs.

CONCLUSION

The recommendations made here have not been reached carelessly. They are the result of months of concerted research and analysis, documented in the body of the report. Although some recommendations reach to the most fundamental levels of government agency operation and community life, they have been presented only after consideration of every identifiable option.

The depth of concern expressed in this report is not the result of any preordained strategy. Rather, it reflects this Commission's recognition, based on objective evidence, that we are confronted with a national crisis. Every course of action, including a failure to act at all, has a natural consequence. The recommendations made here are those actions deemed most effective in promoting a national campaign against drugs at all levels of society.

President's Commission on Organized Crime

Report to the President
and the
Attorney General

AMERICA'S HABIT: Drug Abuse, Drug Trafficking, and Organized Crime

Appendix

1986

APPENDIX A

APPENDIX A

PRESIDENT'S COMMISSION ON ORGANIZED CRIME

DEFINITION OF ORGANIZED CRIME

Organized crime is an industry that is dependent upon the effective coordination of its two components, the "criminal group" and the "buffer."

The criminal group (in its various manifestations, "cartel," "corporation," "family," "gang," "gumi," "triad," etc.) is a continuing, structured collectivity of defined members utilizing criminality, including violence, to gain and maintain profit and power. Thus, the six characteristics of the criminal group are continuity, structure, defined membership, criminality, violence, and power as its goal.

The buffer is the criminal group's protection from the criminal justice system. The buffer protects the criminal group from effective prosecution through the efforts of corrupt judges, attorneys, law enforcement officers, politicians, financial advisors, financial institutions, gaming establishments, and other businesses both in the United States and abroad.

In addition to the direct activities of organized crime, there are indirect or support activities that assist organized crime. Individuals that provide this support may include those who are working for a particular criminal group while waiting for the opportunity to become members of the group. These support groups fall into four categories:

1. Specialist Support includes individuals and groups who perform specific tasks to facilitate organized crime activities, including pilots, chemists, arsonists, and saboteurs;

2. Supply Support includes the providers of organized crime's illicit goods and services;

3. User Support includes the users of organized crime's illicit goods and services, including drug users and patrons of the local bookie; and

4. Social Support includes individuals and organizations that grant power and an air of legitimacy to organized crime generally and to certain criminal groups and their members specifically; for example, public officials who solicit the support of organized crime figures; business leaders who do

business with organized crime; social and community leaders who invite organized crime figures to social gatherings; and members of the media and entertainment industries who portray the criminal group or organized crime in a favorable or glamorous light.

The reader will find a more detailed discussion of the definition of organized crime in the Commission's Final Report.

APPENDIX B

APPENDIX B

STATE AND LOCAL LAW ENFORCEMENT SURVEY

The State and local law enforcement survey was sent to approximately 725 law enforcement agencies nationwide. The surveys were sent in two mailings. The first mailing was sent to all cities with populations of more than 200,000, all State law enforcement agencies, and 19 cities with populations of less than 200,000 with recognized organized crime activity. These cities were not randomly selected and therefore these surveys are referred to as certainty cities.

The second mailing included 600 local law enforcement agencies in towns, cities and counties with populations of less than 200,000. Eleven of these returned their surveys stating that they had no law enforcement authority and therefore could not complete the survey. These eleven were then considered "out of scope" and deleted from the sampling bringing the total number of surveys considered to 589. The sample for this mailing was selected as follows:

The Census Bureau provided the Commission with six strata for the law enforcement survey:

Stratum 1: Counties containing a city with a population of 50,000 or more.

Stratum 2: All counties with a county population of 10,000 or more not in stratum 1.

Stratum 3: All cities with populations of 50,000 to 199,000.

Stratum 4: All cities with populations of 10,000 to 49,000.

Stratum 5: All townships with populations of 50,000 to 199,000.

Stratum 6: All townships with populations of 10,000 to 49,000.

The list of law enforcement agencies in each stratum was divided into the four Census regions and in each region the agencies were listed alphabetically by State. Within each State the agencies were listed in descending order by the population size of the agency's jurisdiction.

Each region was to be sampled independently in each stratum according to the following plan:

TABLE A

Stratum	North	Central	South	West	Total
1	10	10	10	10	40
2	65	65	65	65	260
3	65	65	65	65	260
4	10	10	10	10	40
	150	150	150	150	600

The total size of each region/stratum cell was:

TABLE B

Stratum	North	Central	South	West
1	38	80	96	49
2	157	679	1067	222
3	99	99	98	92
4	718	694	558	207

Therefore, the sampling interval was each cell in Table A divided by the corresponding cell in Table B. However, a whole integer ratio was used rather than a decimal fraction.

Random "start" numbers were generated from column 8, page 441 (randomly chosen) in Accountant's Handbook of Formula and

Tables, Lipkin, Frienstein and Derrie, 2nd ed., Prentice Hall 1973. When the sampling ratio was determined for the first region/stratum cell, the column of random numbers was searched beginning with the first number in the column until a number was located whose first digit was smaller than the sampling ratio integer. The digit became the "start" number. For the second cell the column was searched beginning with the number immediately succeeding the number just used. This process was continued throughout sample selection. For some cells the sampling ratio was a two-digit integer. For these cases the column was searched in the same manner as above until a number was found whose first two digits were smaller than the sampling ratio. These first two digits became the start number.

In cells where the total number of cases was equal to or greater than twice the number of cases to be selected, a second sample of equal size was drawn. The sampling interval was the same for the second sample. The start number was determined by adding (or subtracting when necessary) half the sampling interval to the start number for the first sample. The sampling interval was changed.

Situations arose (which can be determined through examination of Tables A and B) where the cell was not large enough to produce two samples of equal size. In these cases, the first sample became the residual cases.

Because the whole integer sampling approach was used, the number of cases selected per cell differed somewhat from the initial sampling plan. The actual cases selected for the first sample were:

Stratum	North	Central	South	West	Total
1	9	8	8	10	35
2	79	68	66	74	287
3	65	66	64	62	257
4	10	10	10	14	44
	163	152	148	160	623

The number of cases selected for the second sample were the same for each cell except for the cells in stratum 3 which were:

North, 34; Central, 33; South, 34; West, 30.

The response rate for the certainty cities and agencies was approximately 77 percent, while the smaller local agencies had a response rate of 70 percent.

The Commission staff edited, coded and assigned weights to returned surveys. The weighting was computed by multiplying the basic weight by the nonresponse adjustment rate (the nonresponse adjustment rate was computed by dividing the number of surveys sent by the number received). Survey responses are then multiplied by the weights so national generalizations can be made.

The surveys were then sent to the Federal Bureau of Investigation to be inputted into their computer. The National Institute of Justice then transferred the information onto their IBM which accesses the University of Michigan IBM system. This system was used because it has the capabilities of weighting the surveys and statistical package (OSIRIS) necessary to produce the charts for analysis by the Commission staff.

LOCAL PROSECUTORS SURVEY

The following criteria was used in selecting which local prosecutors would receive surveys:

a) all city agencies whose jurisdictions' population exceeded 200,000;

b) all county agencies whose jurisdictions' population exceeded 200,000; and

c) the largest agency in each state that is not represented in a or b.

A total of 243 surveys were sent, 141 completed surveys were returned to the Commission for a response rate of 58 percent.

FEDERAL LAW ENFORCEMENT SURVEY

The Federal law enforcement surveys were sent to the directors of agencies at the Bureau of Alcohol, Tobacco and Firearms, Department of Labor, Drug Enforcement Administration, Federal Bureau of Investigation, Immigration and Naturalization Service, Internal Revenue Service, U.S. Customs Agency and Secret Service. They were then to be disseminated to the various field offices of each agency for completion. The Commission received the following number of completed surveys:

Bureau of Alcohol, Tobacco and Firearms	24
Department of Labor	11
Drug Enforcement Administration	26
Federal Bureau of Investigation	59
Immigration and Naturalization Service	11
Internal Revenue Service	0
U.S. Customs Agency	32
Secret Service	1
TOTAL	164

APPENDIX C

APPENDIX C

FEDERAL LAW ENFORCEMENT STRUCTURE AS OF MARCH 1, 1973[1]

I. Department of Justice.

A. BNDD: "controls legally manufactured drugs and suppresses illicit narcotics traffic" by working with foreign countries to interdict international trafficking, disrupts domestic trafficking groups, prepares cases for prosecution, seizes drugs, provides technical assistance to States in the enforcement of their drug laws, assists States in drafting legislation, and provides training programs.

B. Law Enforcement Assistance Administration (LEAA): makes block grants to States for planning, establishing, and operating drug law enforcement units.

C. ODALE: operates a concentrated program for drug law enforcement through task forces in specific geographical areas.[2]

D. ONNI: functions as a clearinghouse for intelligence information relating to drug trafficking, without the authority to develop such information on its own.

E. Narcotics and Dangerous Drug Section within the Criminal Division: supervises all prosecutions for criminal violations of Federal drug laws and handles litigation relating to the commitment of addicts under the Narcotic Addict Rehabilitation Act.

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[1] This chart is based primarily on information that was contained in a Survey of Federal drug law enforcement functions released by the Congressional Research Service of the Library of Congress on December 7, 1972. Permanent Subcomm. on Investigations of the Senate Comm. on Government Operations, Federal Narcotics Enforcement, S. Rep. No. 1039, 94th Cong., 2d Sess. 23-26 (1976).

[2] ODALE task forces were set up in 34 cities in 1972; the task forces comprised Federal investigators and attorneys and State and local law enforcement personnel. Id. at 24. ODALE also operated "Heroin Hotline."

F. INS: prevents the smuggling of drugs across the Country's borders at other than ports of entry.

II. Department of Treasury.

A. Bureau of Customs: interdicts the flow of illegal drugs into the Country at ports of entry and border points, using, among other things, the Customs Automated Data Processing Intelligence Network (CADPIN) which contained information relating to the records of known smugglers.

B. IRS: operates the Narcotic Trafficker Program which was designed to make cases against top traffickers of criminal and civil violations of the Internal Revenue Code.

III. Department of State.

A. Office of the Senior Advisor to the Secretary of International Narcotics Matters: mobilizes and coordinates foreign and domestic efforts to halt international drug trafficking.

B. Narcotics Control Coordinators: assigned to U.S. embassies in countries which produce drugs or are used as transit points in illicit drug trafficking to coordinate and guide U.S. anti-drug activities in their respective countries.

C. Agency for International Development (AID): provides economic assistance to countries which want to develop narcotics control programs, provides training in drug law enforcement to foreign law enforcement personnel, and provides such officials with equipment and technical assistance.

IV. Department of Transportation.

A. Coast Guard: cooperates with Customs and BNDD in drug investigations and interdictions.

B. Federal Aviation Administration (FAA): provides radar coverage for borders and flight information when requested by Customs and BNDD.

V. Miscellaneous.

A. Cabinet Committee on International Narcotics Control: formulates and coordinates all Federal policies concerning the interdiction of illegal drugs flowing into the United States.

B. Department of Agriculture: supports research projects designed to eradicate opium poppy cultivation and promote suitable crop substitution.

C. Military Police: enforces drug laws and regulations within the services.

D. Office of Science and Technology within the White House: researches and develops programs to limit the supply of drugs.

APPENDIX D

APPENDIX D

May 17, 1985

FEDERAL DRUG ABUSE BUDGET SUMMARY

The attached working paper describes the level of Federal budget and spending for drug abuse programs, including drug law enforcement, international narcotics control and the health-related drug abuse activities. The data has been collected by the Office of Management and Budget, in cooperation with the Drug Abuse Policy Office in the Office of Policy Development, and reflects the budget as contained in the President's Fiscal Year 1986 budget submitted to the Congress. Where agencies have drug abuse functions which are not specifically identified in the accounting system, the amounts are allocated based on workload or estimated by responsible budget officials. Any corrections, suggestions or other comments should be furnished to the appropriate OMB budget examiner or the Drug Abuse Policy Office.

Budget Authority and Outlays, FY 1982 through FY 1986

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FEDERAL DRUG ABUSE BUDGET -- TOTAL PROGRAM SUMMARY (Millions of Dollars) Page 1

5/16/85	FY 1982 BA	FY 1982 Outlay	FY 1983 BA	FY 1983 Outlay	FY 1984 BA	FY 1984 Outlay	FY 1985 BA	FY 1985 Outlay	FY 1986 BA	FY 1986 Outlay
Dept of Justice										
DEA	242.7	224.6	283.0	275.9	327.9	317.8	336.5	329.7	345.7	338.5
FBI	40.0	40.0	107.6	107.6	97.2	97.2	98.3	98.3	98.8	98.8
CrimDiv	2.0	2.0	2.2	2.2	1.7	1.8	3.0	3.0	3.0	3.0
TaxDiv	0.0	0.0	1.0	1.0	3.5	3.5	5.5	5.5	6.5	6.5
USAttorneys	19.9	19.5	31.6	31.0	42.9	42.0	48.9	47.9	50.8	49.8
US Marshals	0.0	0.0	0.7	0.6	0.7	0.6	0.7	0.6	0.7	0.6
BOP	89.1	88.1	101.9	93.8	137.7	130.7	157.4	153.3	164.5	159.9
Pris(CAP)	0.0	0.0	12.6	1.7	0.0	6.4	0.0	4.6	0.0	0.0
OCDE TF (Dir)	0.0	0.0	0.7	0.2	1.8	0.8	2.4	2.3	0.2	0.2
INS	2.4	2.4	2.4	2.4	2.4	2.4	2.5	2.5	2.6	2.6
OJARS	0.0	3.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
OJP	4.1	1.6	0.6	3.2	2.4	1.1	7.6	3.4	5.9	8.5
Dept of Treasury										
Customs	196.0	193.0	245.1	241.5	297.3	291.7	336.0	331.7	330.8	323.8
IRS	43.5	43.5	43.5	49.4	56.7	56.7	53.4	53.4	54.5	54.5
BATF	1.5	0.5	4.6	2.9	6.0	6.9	7.1	7.1	7.0	7.0
Department of State										
INM	36.7	42.3	36.7	36.6	41.2	33.3	50.2	42.8	57.5	60.0
AID	15.7	0.2	9.2	10.6	10.6	7.9	10.1	19.1	7.7	14.3
DOD	57.6	57.6	69.7	69.7	73.9	73.9	94.2	94.2	93.4	93.4
Dept of Transportation										
USCG	195.1	195.1	289.1	289.1	289.8	289.8	308.3	308.3	328.5	328.5
FAA	0.6	0.6	0.6	0.6	0.8	0.8	1.3	1.3	2.0	2.0
NHTSA	.0	.0	2.9	1.1	3.5	3.7	2.9	2.8	3.8	3.5
FRA	0.1	0.1	0.1	0.1	0.3	0.3	0.4	0.4	0.4	0.4
UMTA	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.1	0.1	0.2
Dept of Health and Human Services *										
NIDA	56.4	176.6	61.9	67.2	71.1	56.0	80.3	74.5	84.1	81.3 *
NIAAA	1.3	1.1	2.5	2.5	4.9	4.2	5.0	4.8	5.1	5.1 *
SSA	0.6	0.4	0.6	0.6	0.5	0.5	0.5	0.5	0.5	0.5
FDA	0.8	0.8	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7
USDA	1.7	1.7	1.7	1.7	1.6	1.6	1.6	1.6	1.4	1.4
US Forest Svc	0.0	0.0	1.0	1.0	5.2	5.1	9.3	8.9	2.2	2.0
Dept of Educ	2.8	2.7	2.8	2.1	2.8	3.0	3.0	2.9	3.0	3.0
Dept of Labor							0.2	0.2	0.0	0.1
Job Corps	0.2	0.2	0.1	0.1	0.2	0.2	0.1	0.1	.0	.0
MSHA	.0	.0	.0	.0	.0	.0	0.2	0.2	0.0	0.1
ETA	1.2	1.2	0.4	0.4	0.2	0.2	6.9	6.9	6.9	6.9
ACTION	6.8	6.8	6.9	6.9	6.8	6.8	69.7	69.7	68.5	68.5
VA	55.8	55.8	65.1	65.1	67.7	67.7	0.2	0.2	0.2	0.2
OPD,DAPO	0.2	0.2	0.2	0.2	0.2	0.2				
TOTALS	1,074.8	1,162.1	1,389.7	1,369.7	1,560.1	1,515.2	1,704.3	1,683.3	1,737.0	1,725.9

Footnotes:

--Does not include law enforcement support furnished by DOD for border interdiction, estimated at $15.8M in FY84, $14.6M in FY85, no estimate available for FY86. Also, equipment valued at $88M is on loan from DOD to drug law enforcement agencies.

--Does not include AID projects which provide indirect support in producing countries, estimated in FY82 -$7.4M, FY83-$10M, FY84-$7.5M, FY85-$3.5M, FY86-not estimated.

--FY86 budgets reflect 5% pay reduction for Federal employees.

--Does not include support provided by the intelligence agencies.

*--Portions of or all funding transferred to State Block Grants. Amounts for block grants are not reflected in agency budgets. A summary of applicable block grants and discretionary authority follows:

Alcohol, Drug Abuse & Mental Health Block Grants--FY82-Minimum $78M, Maximum $146M
FY83 Minimum $79M, Maximum $170M
FY84 Minimum $70M, Maximum $199M
FY85 Minimum $65M, Maximum $244M
FY86 Minimum $65M, Maximum $244M

Social Services Block Grants-Approximately $11M each year (from OHD).

FEDERAL DRUG LAW ENFORCEMENT -- SUMMARY (Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
Dept of Justice										
DEA	242.7	224.6	283.0	275.9	327.8	317.7	336.4	329.6	345.6	338.4
FBI	40.0	40.0	107.6	107.6	97.2	97.2	98.3	98.3	98.8	98.8
CrimDiv	2.0	2.0	2.2	2.2	1.7	1.8	3.0	3.0	3.0	3.0
TaxDiv	0.0	0.0	1.0	1.0	3.5	3.5	5.5	5.5	6.5	6.5
US Attorneys	19.9	19.5	31.6	31.0	42.9	42.0	48.9	47.9	50.8	49.8
US Marshals	0.0	0.0	0.7	0.6	0.7	0.6	0.7	0.6	0.7	0.6
BOP	86.2	85.3	99.1	91.2	135.0	128.2	154.3	150.3	161.3	156.8
Prisons (CAP)	0.0	0.0	12.6	1.7	0.0	6.4	0.0	4.6	0.0	0.0
OCDE TF (Direct)	0.0	0.0	0.7	0.2	1.8	0.8	2.4	2.3	0.2	0.2
INS	2.4	2.4	2.4	2.4	2.4	2.4	2.5	2.5	2.6	2.6
OJARS	6.0	3.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Dept of Treasury										
Customs	196.0	193.0	245.1	241.5	297.3	291.7	336.0	331.7	330.8	323.8
IRS	43.5	43.5	43.5	49.4	56.7	56.7	53.4	53.4	54.5	54.5
BATF	1.5	0.5	4.6	2.9	6.0	6.9	7.1	7.1	7.0	7.0
Department of State										
INM	36.7	42.3	36.7	36.6	41.2	33.3	50.2	42.8	57.5	60.0
AID (Direct)	15.7	0.2	9.2	10.6	10.6	7.9	10.1	19.1	7.7	14.3
Dept of Transportation										
USCG	194.1	194.1	288.0	288.0	288.1	288.1	306.3	306.3	326.3	326.3
FAA	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
USDA (Rsch)	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4
US Forest Svc	0.0	0.0	1.0	1.0	5.2	5.1	9.3	8.9	2.2	2.0
FDA	0.8	0.8	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7
TOTAL	883.0	853.3	1,171.2	1,146.0	1,320.3	1,292.4	1,426.5	1,416.0	1,457.7	1,446.8

Footnotes:

--Does not include law enforcement support furnished by DOD for border interdiction, estimated at $15.8M in FY84, $14.6M in FY85, no estimate available for FY86.

Also, equipment valued at $88M is on loan from DOD to drug law enforcement agencies.

--Does not include AID projects which provide indirect support in producing countries, estimated in FY82 -$7.4M, FY83-$10M, FY84-$7.5M, FY85-$3.5M, FY86-not estimated.

--FY86 budgets reflect 5% pay reduction for Federal employees.

FEDERAL CRIMINAL INVESTIGATIONS (DRUG LAW ENFORCEMENT)

(Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
DEA	144.10	135.30	173.70	169.40	210.90	204.50	215.50	211.10	216.20	211.70
FBI	38.00	38.00	102.20	102.20	92.30	92.30	93.40	93.40	93.90	93.90
INS	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60
BATF	1.50	0.50	4.60	2.90	6.00	6.90	7.10	7.10	7.00	7.00
TOTAL	184.20	174.40	281.10	275.10	309.80	304.30	316.60	312.20	317.70	313.20

Footnote: This category does not include financial or tax investigations conducted by Customs or the Internal Revenue Service. These activities are reported in other categories.

INTELLIGENCE (DRUG LAW ENFORCEMENT)

(Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
DEA	23.00	18.40	23.50	22.90	24.80	24.00	25.20	24.70	25.90	25.40
FBI	2.00	2.00	5.40	5.40	4.90	4.90	4.90	4.90	4.90	4.90
INS	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
FAA	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05
USCG	0.10	0.10	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20
TOTAL	25.25	20.65	29.25	28.65	30.05	29.25	30.45	29.95	31.15	30.65

Footnote: Does not include support provided by intelligence agencies.

BORDER INTERDICTION (DRUG LAW ENFORCEMENT) (Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
INS	1.60	1.60	1.60	1.60	1.60	1.60	1.70	1.70	1.80	1.80
Customs	194.00	190.00	243.20	239.30	295.80	290.20	334.00	329.70	328.80	321.80
USCG	194.00	194.00	287.80	287.80	287.70	287.70	305.30	305.30	325.40	325.40
TOTAL	389.60	385.60	532.60	528.70	585.10	579.50	641.00	636.70	656.00	649.00

Footnote: Does not include investigative support provided by DEA or costs of military assistance provided to civilian law enforcement agencies in support of the border interdiction effort. DOD estimates the cost of military assistance at $15.8M for FY84 and $14.6M for FY85. Also, a significant amount of military equipment (valued at $88M) is on loan to law enforcement agencies in support of the interdiction effort.

INTERNATIONAL NARCOTICS CONTROL (Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
DEA	34.30	32.30	37.40	36.50	44.40	43.00	45.60	44.70	47.00	46.00
CrimDiv,DOJ	0.43	0.43	0.50	0.50	0.30	0.30	0.60	0.60	0.60	0.60
INM,State	36.70	42.30	36.70	36.60	41.20	33.26	50.20	42.80	57.53	60.00
AID,State	15.70	0.17	9.20	10.60	10.60	7.90	10.10	19.10	7.70	14.30
TOTAL	87.13	75.20	83.80	84.20	96.50	84.46	106.50	107.20	112.83	120.90

Footnote: Does not include AID projects which provide indirect support in producing countries, estimated in FY82--$7.4M, FY83--$10M, FY84--$7.5M, FY85--$3.5M, FY86-not estimated.

FEDERAL PROSECUTION (DRUG LAW ENFORCEMENT) (Millions of Dollars)

5/16/85	FY 1982 BA	FY 1982 Outlay	FY 1983 BA	FY 1983 Outlay	FY 1984 BA	FY 1984 Outlay	FY 1985 BA	FY 1985 Outlay	FY 1986 BA	FY 1986 Outlay
Crim Div,DOJ	1.60	1.60	1.70	1.70	1.40	1.50	2.40	2.40	2.40	2.40
Tax Div,DOJ	0.00	0.00	1.00	1.00	3.50	3.50	5.50	5.50	6.50	6.50
US Attorneys	19.90	19.50	31.60	31.00	42.90	42.00	48.90	47.90	50.80	49.80
US Marshals	0.00	0.00	0.70	0.60	0.70	0.60	0.70	0.60	0.70	0.60
INS	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
TOTAL	21.60	21.20	35.10	34.40	48.60	47.70	57.60	56.50	60.50	59.40

CORRECTIONS (DRUG LAW ENFORCEMENT) (Millions of Dollars)

5/16/85	FY 1982 BA	FY 1982 Outlay	FY 1983 BA	FY 1983 Outlay	FY 1984 BA	FY 1984 Outlay	FY 1985 BA	FY 1985 Outlay	FY 1986 BA	FY 1986 Outlay
Prisons(CAP)	0.00	0.00	12.60	1.70	0.00	6.35	0.00	4.55	0.00	0.00
BOP	86.20	85.30	99.10	91.20	135.00	128.20	154.30	150.30	161.30	156.80
TOTAL	86.20	85.30	111.70	92.90	135.00	134.55	154.30	154.85	161.30	156.80

STATE AND LOCAL ASSISTANCE (DRUG LAW ENFORCEMENT
INCLUDES DOMESTIC ERADICATION (Millions of Dollars)

5/16/85	FY 1982 BA	FY 1982 Outlay	FY 1983 BA	FY 1983 Outlay	FY 1984 BA	FY 1984 Outlay	FY 1985 BA	FY 1985 Outlay	FY 1986 BA	FY 1986 Outlay
DEA	19.20	16.70	21.60	21.00	21.00	20.30	21.40	21.00	22.10	21.60
OJARS	0.00	3.60	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Forest Svc	0.00	0.00	1.00	1.00	5.20	5.10	9.30	8.90	2.20	2.00
TOTAL	19.20	20.30	22.60	22.00	26.20	25.40	30.70	29.90	24.30	23.60

RESEARCH AND DEVELOPMENT (DRUG LAW ENFORCEMENT) (Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
DEA	1.80	2.80	4.20	4.10	4.50	4.40	4.10	4.00	4.10	4.00
OCDE TF	0.00	0.00	0.70	0.24	1.83	0.80	2.38	2.33	0.21	0.22
USDA	1.40	1.40	1.40	1.40	1.40	1.40	1.40	1.40	1.40	1.40
Customs	2.00	3.00	1.90	2.20	1.50	1.50	2.00	2.00	2.00	2.00
USCG	0.00	0.00	0.00	0.00	0.20	0.20	0.80	0.80	0.70	0.70
TOTAL	5.20	7.20	8.20	7.94	9.43	8.30	10.68	10.53	8.41	8.32

REGULATORY AND COMPLIANCE (DRUG LAW ENFORCEMENT) (Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
DEA	20.30	19.10	22.60	22.00	22.20	21.50	24.60	24.10	30.30	29.70
FDA	0.80	0.80	0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.70
IRS (Tax)	43.50	43.50	43.50	49.40	56.70	56.70	53.40	53.40	54.50	54.50
TOTAL	64.60	63.40	66.80	72.10	79.60	78.90	78.70	78.20	85.50	84.90

FEDERAL HEALTH-RELATED DRUG ABUSE PROGRAMS -- SUMMARY

(Millions of Dollars)

5/16/85	FY 1982 BA	FY 1982 Outlay	FY 1983 BA	FY 1983 Outlay	FY 1984 BA	FY 1984 Outlay	FY 1985 BA	FY 1985 Outlay	FY 1986 BA	FY 1986 Outlay
Dept of Health and Human Services										
NIDA	56.4	176.6	61.9	67.2	71.1	56.0	80.3	74.5	84.1	81.3 *
NIAAA	1.3	1.1	2.5	2.5	4.9	4.2	5.0	4.8	5.1	5.1 *
SSA	0.6	0.4	0.6	0.6	0.5	0.5	0.5	0.5	0.5	0.5
DOD	57.6	57.6	69.7	69.7	73.9	73.9	94.2	94.2	93.4	93.4
Department of Justice										
DEA	0.0	0.0	0.0	0.0	0.1	0.1	0.1	0.1	0.1	0.1
OJP	4.1	1.6	0.6	3.2	2.4	1.1	7.6	3.4	5.9	8.5
BOP	2.9	2.8	2.8	2.6	2.7	2.5	3.1	3.0	3.2	3.1
Dept of Educ	2.8	2.7	2.8	2.1	2.8	3.0	3.0	2.9	3.0	3.0
USDA	0.3	0.3	0.3	0.3	0.2	0.2	0.2	0.2	0.0	0.0
Dept of Transportation										
USCG	1.0	1.0	1.1	1.1	1.7	1.7	2.0	2.0	2.2	2.2
NHTSA	.0	.0	2.9	1.1	3.5	3.7	2.9	2.8	3.8	3.5
FRA	0.1	0.1	0.1	0.1	0.3	0.3	0.4	0.4	0.4	0.4
FAA	0.5	0.5	0.5	0.5	0.7	0.7	1.2	1.2	1.9	1.9
UMTA	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.1	0.1	0.2
Dept of Labor										
Job Corps	0.2	0.2	0.1	0.1	0.2	0.2	0.2	0.2	0.0	0.1
MSHA	.0	.0	.0	.0	.0	.0	0.1	0.1	.0	.0
ETA	1.2	1.2	0.4	0.4	0.2	0.2	0.2	0.2	0.0	0.1
ACTION	6.8	6.8	6.9	6.9	6.8	6.8	6.9	6.9	6.9	6.9
VA	55.8	55.8	65.1	65.1	67.7	67.7	69.7	69.7	68.5	68.5
OPD, DAPO	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
TOTAL	191.8	308.8	218.5	223.7	239.8	222.9	277.8	267.2	279.4	279.1

Footnotes:

*--Portions of or all funding transferred to State Block Grants. Amounts for block grants are not reflected in agency budgets. A summary of applicable block grants and discretionary authority follows:

Alcohol, Drug Abuse & Mental Health Block Grants -- FY82-Minimum $78M, Maximum $146M
FY83 Minimum $79M, Maximum $170M
FY84 Minimum $70M, Maximum $199M
FY85 Minimum $65M, Maximum $244M
FY86 Minimum $65M, Maximum $244M

Social Services Block Grants-Approximately $11M each year (from OHD).

TREATMENT AND REHABILITATION (DRUG ABUSE PROGRAMS)

(Millions of Dollars)

5/16/85	FY 1982 BA	FY 1982 Outlay	FY 1983 BA	FY 1983 Outlay	FY 1984 BA	FY 1984 Outlay	FY 1985 BA	FY 1985 Outlay	FY 1986 BA	FY 1986 Outlay
OJP,DOJ	3.80	1.40	0.00	2.80	0.07	0.07	4.65	1.72	4.00	5.52
BOP	2.90	2.80	2.80	2.60	2.70	2.50	3.10	3.00	3.20	3.10
DOD	21.40	21.40	23.30	23.30	24.11	24.11	28.53	28.53	28.97	28.97
VA	53.80	53.80	62.90	62.90	65.40	65.40	67.20	67.20	66.00	66.00
OHD	*	*	*	*	*	*	*	*	*	*
SSA	0.63	0.35	0.57	0.57	0.50	0.50	0.50	0.50	0.50	0.50
NIDA	*	97.00	*	3.50	*	*	*	*	*	*
USCG	0.50	0.50	0.60	0.60	0.60	0.60	0.60	0.60	0.70	0.70
TOTAL	83.03	177.25	90.17	96.27	93.38	93.18	104.58	101.55	103.37	104.79

Footnotes: *--Some funding transferred into State Block Grants, see summary on page 8.

IDENTIFICATION (TESTING) (DRUG ABUSE PROGRAMS)

(Millions of Dollars)

5/16/85	FY 1982 BA	FY 1982 Outlay	FY 1983 BA	FY 1983 Outlay	FY 1984 BA	FY 1984 Outlay	FY 1985 BA	FY 1985 Outlay	FY 1986 BA	FY 1986 Outlay
DOD	27.80	27.80	32.80	32.80	34.39	34.39	48.17	48.17	45.80	45.80
FRA	0.00	0.00	0.00	0.00	0.00	0.00	0.20	0.20	0.15	0.15
FAA	0.00	0.00	0.00	0.00	0.00	0.00	0.50	0.50	1.30	1.30
USCG	0.00	0.00	0.00	0.00	0.60	0.60	0.90	0.90	0.90	0.90
TOTAL	27.80	27.80	32.80	32.80	34.99	34.99	49.77	49.77	48.15	48.15

PREVENTION AND EDUCATION (HEALTH-RELATED DRUG ABUSE PROGRAMS) (Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
NIDA	*	12.00	*	0.40	2.30	2.30	2.60	2.60	2.60	2.60 *
NIAAA	0.00	0.00	0.70	0.70	0.90	0.90	1.00	1.00	1.00	1.00
DEA	0.00	0.00	0.00	0.00	0.10	0.10	0.10	0.10	0.10	0.10
OJP,DOJ	0.00	0.10	0.30	0.10	1.52	0.38	1.65	0.98	0.00	1.43
NHTSA	0.00	0.00	0.38	0.14	0.68	0.71	0.70	0.68	1.16	1.06
FRA	0.05	0.05	0.08	0.08	0.20	0.20	0.10	0.10	0.00	0.00
USCG	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.40	0.40
ACTION	6.80	6.80	6.90	6.90	6.80	6.80	6.90	6.90	6.90	6.90
Dept of Labor	0.00	0.00	0.00	0.00	0.01	0.01	0.01	0.01	0.01	0.01
ETA	0.67	0.67	0.27	0.27	0.10	0.10	0.15	0.15	0.00	0.08
Job Corps	0.10	0.10	0.10	0.10	0.10	0.10	0.15	0.15	0.00	0.08
MSHA	0.04	0.04	0.04	0.04	0.05	0.05	0.05	0.05	0.04	0.04
DOD	2.30	2.30	6.10	6.10	6.39	6.39	7.65	7.65	7.97	7.97
USDA	0.30	0.30	0.30	0.30	0.20	0.20	0.20	0.20	0.00	0.00
TOTAL	10.56	22.66	15.47	15.43	19.65	18.54	21.56	20.87	20.18	21.67

Footnotes: *--Some funding transferred into State Block Grants, see summary on page 8.

TRAINING (HEALTH-RELATED DRUG ABUSE PROGRAMS) (Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
OJP	0.00	0.00	0.00	0.00	0.00	0.00	0.49	0.04	0.40	0.64
Dept Ed	2.80	2.70	2.80	2.10	2.80	3.00	3.00	2.90	3.00	3.00
DOD	1.10	1.10	1.50	1.50	1.39	1.39	1.65	1.65	2.08	2.08
NIDA	3.60	6.20	0.90	3.20	0.90	0.90	1.50	1.10	1.50	1.40
NHTSA	0.00	0.00	1.06	0.42	1.50	1.58	1.09	1.04	0.89	0.82
USCG	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20
ETA	0.50	0.50	0.12	0.12	0.06	0.05	0.02	0.02	0.00	0.04
Job Corps	0.08	0.07	0.02	0.01	0.06	0.05	0.02	0.02	0.00	0.04
TOTAL	8.28	10.77	6.60	7.55	6.91	7.17	7.97	6.97	8.07	8.22

RESEARCH (HEALTH-RELATED DRUG ABUSE PROGRAMS) (Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
OJP,DOJ	0.30	0.10	0.30	0.30	0.61	0.16	0.80	0.57	1.50	0.95
DOD	0.10	0.10	0.10	0.10	0.08	0.08	0.09	0.09	0.09	0.09
VA	2.00	2.00	2.20	2.20	2.30	2.30	2.50	2.50	2.50	2.50
NIAAA	1.27	1.09	1.80	1.80	4.00	3.29	4.00	3.76	4.10	4.10
NIDA	41.00	47.00	47.50	47.10	55.50	41.00	64.10	58.80	66.60	65.90
NHTSA	0.02	0.02	1.45	0.55	1.35	1.41	1.14	1.09	1.73	1.59
FAA	0.40	0.40	0.40	0.40	0.60	0.60	0.50	0.50	0.40	0.40
TOTAL	45.09	50.71	53.75	52.45	64.44	48.84	73.13	67.31	78.92	75.53

PLANNING/DIRECTION/SUPPORT/EVALUATION (HEALTH-RELATED DRUG ABUSE) (Millions of Dollars)

	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986	
5/16/85	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
OJP	0.00	0.00	0.00	0.00	0.15	0.49	0.00	0.08	0.00	0.00
DOD	4.90	4.90	5.90	5.90	7.54	7.54	8.10	8.10	8.52	8.52
NIDA	11.80	14.40	13.50	13.00	12.40	11.80	12.10	12.00	11.40	11.40
FRA	0.01	0.01	0.03	0.03	0.05	0.05	0.10	0.10	0.25	0.25
FAA	0.10	0.10	0.10	0.10	0.10	0.10	0.20	0.20	0.20	0.20
UMTA, DOT	0.00	0.00	0.00	0.00	0.00	0.00	0.10	0.10	0.10	0.20
OPD,DAPO	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20
TOTAL	17.01	19.61	19.73	19.23	20.44	20.18	20.80	20.78	20.67	20.77

INDEX OF ABBREVIATIONS

AID-Agency for International Development
BA-Budget Authority
BATF-Bureau of Alcohol, Tobacco, and Firearms
BOP-Bureau of Prisons
Crim Div-Criminal Division, Dept of Justice
Customs-US Customs Service
DAPO-Drug Abuse Policy Office
DEA--Drug Enforcement Administration
Dept of Ed-Department of Education
DOD-Department of Defense
DOJ-Department of Justice
DOL-Department of Labor
ETA-Employment and Training Administration, Dept of Labor
FAA-Federal Aviation Administration
FBI-Federal Bureau of Investigation
FDA-Food and Drug Administration
FRA-Federal Railroad Administration
FY-Fiscal Year
HHS-Department of Health and Human Services
INM-International Narcotics Matters
INS-Immigration and Naturalization Service
IRS-Internal Revenue Service
Job Corps-Job Corps, Department of Labor
MSHA-Mine Safety and Health Administration
NHTSA-National Highway Traffic Safety Administration
NIAAA-National Institute on Alcohol Abuse and Alcoholism
NIDA-National Institute on Drug Abuse
NIMH-National Institute of Mental Health
OCDE TF-Organized Crime/Drug Enforcement Task Forces
OHD-Office of Human Development, Dept of Health and Human Services
OJARS-Office of Justice Assistance, Research and Statistics
OJP-Office of Justice Program (Includes National Institute of Justice, Bureau of Justice Statistics, Juvenile Justice, Crime Justice Act, and Office of Juvenile Justice Delinquency Program.
OPD-Office of Policy Development
Outlay-Expenditures for all available BA
Prisons(CAP)-Special program for construction assistance
Rsch-Research
SSA-Social Security Administration
Tax Div-Tax Division, Department of Justice
UMTA-Urban Mass Transportation Administration, Dept of Transportation
US Atty-US Attorneys
USCG-US Coast Guard
USDA-US Department of Agriculture
US Forest Svc-US Forest Service
US Marshals-US Marshals Service
VA-Veterans Administration

APPENDIX E

APPENDIX E

CURRENT DEPARTMENT OF DEFENSE ASSISTANCE TO DRUG ENFORCEMENT

(Source: Department of Defense Task Force on Drug Enforcement, December, 1985.)

U.S. Navy

E-2/OV-10/USCS

Navy E-2's provide aerial surveillance for the U.S. Customs Service. Geographic areas of interest include the Caribbean, the Mexican border, Gulf of Mexico, the offshore waters of Florida and California. Frequently U. S. Marine Corps OV-10's are co-based with the E-2C's. When the E-2 gains radar contact on a suspect aircraft (an aircraft not conforming to airways or demonstrating erratic movement, etc.), the E-2 will request the launch of an OV-10 which it vectors in to trail the suspect. The OV-10 interceptor will visually identify, evaluate, and track the suspect by day and will use its forward looking infra-red (FLIR) detection system at night. OV-10's in coordination with the E-2 will contact the U.S. Customs Service which will launch either a fixed-wing interceptor or a UH-60 Blackhawk helicopter on loan from the Army to make the arrest when the suspect lands.

P-3/S-3/USCG

Navy P-3's fly long-range surface surveillance tracks throughout the Caribbean, Gulf of Mexico, coastal Atlantic Ocean areas, in the Yucatan Passage and Pacific coastal areas. S-3's flying from San Diego, California fly surveillance tracks off California and Mexico as well as the Mexican border adjacent to California, New Mexico and Arizona. Contacts of interest are passed to U.S. Coast Guard cutters that are positioned tactically along various regional chokepoints. Coast Guard cutters coordinate with and receive authorization from the Department of State to conduct search and seizure of suspect vessels.

U.S. Air Force

E-3A AWACS/USCS

USAF E-3A, Airborne Warning and Control System (AWACS) fly aerial surveillance missions similar to Navy E-2s. Frequently USCS radar operators and air intercept controllers are embarked on AWACS. When a suspect aircraft is detected, OV-1 Mohawk or other USCS "interceptor" aircraft are launched to identify the suspect. Turnover can be made to UH-60 Black Hawk helicopters with civilian law enforcement personnel on board. Upon landing, USCS agents will search, seize and apprehend as appropriate.

B-52/US Navy/USCG

USAF B-52 strategic bombers support U.S. Navy carrier battle groups and surface combatant task groups. B-52's conduct joint training with the Navy in offensive anti-surface warfare strike operations. This training, flown under the "Busy Observer" program, provides excellent anti-drug surface surveillance as an adjunct to normal military operations. B-52 sorties search transit zones for drug-laden motherships which can later be intercepted and seized by offshore USCG cutters.

C-130/USCG

USAF and USAF Reserve C-130's conduct maritime surveillance. Some missions are targeted against known drug-laden motherships. C-130's will continue tracking such ships until USCG cutters complete their intercept. Other C-130 missions conduct surface surveillance of high-density drug trafficking lanes. Suspect vessels are reported to the USCG.

UH-1N/Operation BAT (Bahamas and Turks)

USAF crews fly two UH-1N helicopters stationed in the Bahamas. These helicopters provide quick insertion of Bahamian drug enforcement teams on drug apprehension missions.

U.S. Army

The Army is a supplier of loaned equipment to federal civilian drug enforcement agencies, including aircraft such as:

8	UH-60	Blackhawk helicopters
2	OV-1D	Mohawk (with Forward Looking Infra Red Sensor)
4	AH-1G	Cobra helicopters
16	OH-6	spotter helicopters
6	C-12C	King Air (authorized for delivery in FY86)

Operation HAWKEYE

Operation HAWKEYE, a training initiative, developed by the Army Intelligence Center and School, Ft. Huachuca, AZ, is designed to present real-world situations in a training environment. By modifying selected flight tracks in the OV-1D Mohawk training program, students are required to conduct missions along the US-Mexico border between Douglas and Nogales, Arizona. During these missions selected target areas are imaged with the Mohawk's camera system. Information collated from comparative analysis of the imagery, as well as selected photographic prints, is provided to the Patrol Division of the Customs Service for inclusion in their intelligence data base. In FY85, 72 HAWKEYE missions were flown.

Operation GROUNDHOG

Operation GROUNDHOG is an end-of-course comprehensive test developed by the Army Intelligence Center and School at Fort Huachuca. Two primary courses, ground surveillance radar and ground sensor operations, comprise GROUNDHOG. Ground surveillance radar students are placed in a real-world, high-stress training environment on the US-Mexico border in the vicinity of Yuma. The students spend one week in the field conducting the majority of their training during the hours of darkness. The ground surveillance radar is used to detect and track targets crossing the border. As targets are detected, information is passed to the Border Patrol for their action (at no time are Army personnel involved in apprehension or detention). Ground sensor operations students deploy and monitor ground sensing devices capable of detecting the movement of personnel, vehicles, and aircraft. In FY85, GROUNDHOG was conducted 20 times with 518 targets detected, resulting in 176 apprehensions.

In addition to the enthusiastic response from the Border Patrol for these programs, responses from field commanders have indicated the quality of trained soldiers has significantly increased as a result of participation in this training.

Additional Support

Army/National Guard

The Army and National Guard provide a variety of additional support to drug enforcement agencies including: loan of night vision imaging systems; specialized training, including use of ground radars; rifle and pistol ranges by drug enforcement personnel; and special forces-type training, including rappeling. The Army's new land reconnaissance course provides personnel and equipment intelligence for use by drug enforcement agencies.

Navy/Marine Corps

The Navy provided: radar services, ship services including PHM hydrofoils which embark USCG tactical law enforcement team (TACLETS), and the towing of drug vessels (permits USCG cutters to remain onstation). The ship sighting program is one in which Navy vessels are on lookout for suspects listed in the Coast Guard's Special Interest Law Enforcement Lookout Summary. Six surplus P-3A's will be transferred to Customs. These aircraft which will be configured with Air Force radar enhancing Customs surveillance capability. The Marine Corps provides mobile ground radar surveillance as well as anti-personnel intrusion detection.

Air Force

The USAF operates two aerostat radars located at Cudjoe Key and Patrick AFB. These radars provide effective look-down capability against low-flying aircraft. Both aerostats are digitally linked to the Customs Service Miami Command, Control, Communications (C^3) facility, the Tyndall Region Operations Control Center (ROCC), and the Navy's Fleet Air Control Surveillance Facility at Jacksonville. Two additional aerostats will be turned over to the Customs Service for use in Arizona and the Bahamas. Various electronic equipment is loaned including over 120 Vinson encryption devices to the Customs Service.

In 1985 the USAF flew several additional missions supporting drug enforcement. On occasion, U-2's provide aerial photography aiding drug enforcement intelligence. RF-4C jet aircraft provide airborne reconnaissance of airstrips suspected of being used by drug traffickers.

Additional Multi-Service Support

A total of 43 Army, Navy, and Air Force personnel provide expert assistance to six National Narcotics Border Interdiction System (NNBIS) Regional Centers in addition to the NNBIS headquarters in Washington, D.C. Two additional DoD personnel will be assigned temporarily to assist in establishment of the seventh regional center at Honolulu, Hawaii.

NNBIS coordinates the activities of federal agencies which have responsibility for interdiction of seaborne, airborne, and cross-border drug traffickers. NNBIS monitors suspected smuggling activity originating outside national borders and destined for the United States. It also coordinates the seizure of contraband and the arrests of persons involved in illegal drug importation.

DEPARTMENT OF DEFENSE SURVEILLANCE MISSIONS

CY 1984

U.S. NAVY

Aircraft Type	E-2*	P-3*	OV-10+	Misc.	Total
Sorties	372	535	391	8	1306
Flight Hours	1730.3	3084.4	1354.6	45.8	6169.3

* Includes Active and Reserve
+ USMC

U.S. AIR FORCE

Aircraft Type	UH-1N	B-52	C-130*	E-3	Misc	Total
Sorties	1133	43	63	455	60	1754
Flight Hours	1012.2	119	441	1820	60	3452.2

* Includes USAF Reserve

U.S. ARMY

Aircraft Type	OV-1D
Sorties	59
Hours	174

DOD TOTALS

Sorties	3119
Flight Hours	9795.5

DEPARTMENT OF DEFENSE SURVEILLANCE MISSIONS
FIRST HALF CY1985

U.S. Navy

Aircraft type	E-2*	P-3*	OV-10†	S-3	Total
Sorties	174	214	200	11	599
Flight hours	951.4	1214.3	680.8	51.8	2898.3

*Includes Active and Reserve
†USMC

U.S. Air Force

Aircraft type	UH-1N†	B-52	C-130*	E-3	Misc	Total
Sorties	569	14	7	195	3	788
Flight hours	691.9	52	39	780	6	1568.9

*Includes USAF Reserve
†OPBAT

U.S. Army

Aircraft type	OV-1D
Sorties	31
Hours	31

DoD Totals

Sorties	1418
Flying hours	4498.2

DOD AIRCRAFT AND MAJOR EQUIPMENT PROVIDED, LOANED OR PROCURED FOR DRUG LAW ENFORCEMENT
(Includes FY86)

		Aircraft	Avg Unit Cost	Total
Army	8	UH-60	4.5M	36.0M
	2	OV-1D	2.0M	4.0M
	16	OH-6*	140K	2.2M
	6	C-12C	2.0M	12.0M
	4	AH-1G	1.3M	5.2M
				59.4M
Navy	6	P-3A	4.0M	24.0M
		Other Major Equipment		
Army	28	Night vision sighting devices	6.8K	1.9M
Navy	16	Infra Red Detecting Sets (AAS-36)	500K	5.5M
Air Force	6	F-15 radars	3.0M	18.0M
	4	F-16 radars	600K	2.4M
	120	Communications Encryption Devices	2.8K	.3M
				20.7M
		TOTAL DOD		111.5M**

*Immigration Naturalization Service/Border Patrol

**Through FY85: $88.1M

RECAPITULATION OF NATIONAL GUARD SUPPORT
TO
DRUG ENFORCEMENT OPERATIONS

During the period 1 January through 15 October 1985, 19 states reported the conduct of 199 missions using the National Guard in State Active Duty (SAD) status, or incidental to training, in support of drug enforcement operations. Joint operations in CY 85 have resulted in the destruction of almost 200,000 marijuana plants, with an estimated street value in excess of $260 million. Twenty-nine states have memorandums of agreement with local law enforcement agencies regarding the use of the National Guard, and another 15 states are in the process of developing MOUs. In 30 states, assigned aviation personnel have received training from local law enforcement agencies on spotting, identifying, and reporting suspected marijuana growing locations. This training resulted in the sighting and reporting of an additional 180 marijuana fields and patches.

NATIONAL GUARD SUPPORT OF DRUG CONTROL OPERATIONS

15 October 1985

SUPPORT MISSIONS - CY 85

STATE	PERIOD	PERSONNEL	SUPPORT PROVIDED	RESULTS REPORTED BY STATES
ARIZONA	27 Jul-Aug	31(ANG)	Radar operations by 102 TAC Control Squadron incidental to training.	Tracked five possible targets. Four of these were investigated by U.S. Customs.
CALIFORNIA	12, 26 Jul, 9, 23 Aug, 6, 20 Sep & 4 Oct	6 (ANG)	Transport federal/state drug control officers by C 130 aircraft; incidental to training.	Transported forty-five law enforcement officers between Los Angeles and locations in northern California to participate in joint drug eradication operations.
	27-30 Aug	3	Standby ARNG aviation support to DEA/incidental to training.	Transported drug control personnel.
	17 Sep	6 (ANG)	Aerial surveillance; incidental to training by ANG (3-F4-Cs).	Mission conducted in response to request from NNBIS for search for suspect vessel.
	20 Sep	6 (ANG)	Aerial surveillance; incidental to training by ANG (C-130).	Mission conducted in response to request from NNBIS for search for suspect vessel.
COLORADO	24 May	3	ARNG aviation support to transport DEA officials; incidental to training.	Transported two DEA agents from Denver to Pueblo, and some additional locations to check on small airports and other possible aircraft landing sites.
FLORIDA	11-12 Jun	3	ARNG aviation support incidental to training.	Transported two observers from the Florida Department of Law Enforcement. Two possible marijuana fields sighted.

STATE	PERIOD	PERSONNEL	SUPPORT PROVIDED	RESULTS REPORTED BY STATES
GEORGIA	Jan-Oct		ARNG observation and reporting incidental to training.	143 training missions during which one possible marijuana field was sighted and reported for each mission.
HAWAII	21 Jan	5	ARNG aviation support training in State Active Duty (SAD) status.	Provided rappelling training for 14 law enforcement personnel.
	20 Apr	7	ARNG aviation support training (SAD)	Provided rappelling training for 25 law enforcement personnel.
	24-26 Apr	17	ARNG aviation support (SAD)	Joint marijuana eradication operations: 3,663 plants destroyed; estimated street value-$3.6 million.
	29-30 Apr	2	ARNG aviation support (SAD)	Observation & reconnaissance of possible marijuana fields.
	13-17 May	47	ARNG aviation support (SAD)	Joint marijuana eradication opertions: 94,197 plants destroyed estimated street value - $94.1 million.
	17-20 Sep	22	ARNG aviation support (SAD)	Joint marijuana eradication operations: 8360 plants destoyed; estimated value - $8.3 million.
	24-25 Sep	3	ARNG aviation support (SAD)	Joint marijuana eradication operations: 133 plants destroyed; estimated street value - $133,000.
	7-11 Oct	20	ARNG aviation support (SAD)	Joint marijuana eradication operations: 24,881 plants destroyed; estimated street value - $24,880,000.

STATE	PERIOD	PERSONNEL	SUPPORT PROVIDED	RESULTS REPORTED BY STATES
ILINOIS	13-14 Jul	10	ARNG aerial reconnaissance; incidental to training.	Twelve marijuana fields sighted and reported.
	29 Jul-1 Aug	11	ARNG aviation support (SAD)	Transported State drug control personnel in/out of inaccessible areas, and transported destroyed marijuana plants. A total of 5,500 plants destroyed at an estimated street value of $ 5.5 million.
	9 Sep	1	ARNG aerial reconnaissance (SAD)	Fifteen marijuana field sightings reported, leading to the seizure by law enforcement officials of 70 marijuana plants and one house estimated value of 50,000. 1,200 additional plants are located in the remaining 14 fields.
	17 Sep	3	ARNG aviation support (SAD)	Joint marijuana eradication operations: 500 marijuana plants airlifted; estimated street value - $570,000.
KENTUCKY	2,8,10,14,15, 24 Aug and 7 Sep	3	ARNG aerial reconnaissance; incidental to training.	Seven possible marijuana fields located and reported.
MISSISSIPPI	11 Jul	4	ARNG aviation support to MS Bureau of Narcotics; incidental to training.	Recovery of drug-trafficker aircraft.
MISSOURI		3	ARNG aerial reconnaissance; incidental to training.	Possible marijuana processing operation sighted, and two dirt runways located. Information relayed to drug enforcement authorities.
	11 Jul	3	ARNG aerial reconnaissance; incidental to training.	One possible marijuana field sighted and reported to local drug enforcement authorities.

STATE	PERIOD	PERSONNEL	SUPPORT PROVIDED	RESULTS REPORTED BY STATES
NEW YORK	15 Feb	2	ARNG aviation support incidental to training.	Two missions flown in support of NNBIS NE region.
NORTH CAROLINA	6 Jun	7	ARNG aviation support incidental to training.	Joint marijuana eradication operations: 2,102 marijuana plants destroyed and airlifted out of area. Estimated street value - $2 Million.
	19-20 Jul	16	ARNG aviation support incidental to training.	Joint marijuana eradication operations: 6,460 marijuana plants destroyed and airlifted out of area. Estimated street value - $5,068,00.
	5-6 Aug	9	ARNG aviation support incidental to training.	Joint marijuana eradication operations: 1,343 marijuana plants destroyed and airlifted out of area. Estimated street value - $1,074,000.
	10 Aug	22	ARNG aviation support incidental to training.	Joint marijuana eradication operations: 2,997 marijuana plants destroyed and airlifted out of area. Estimated street value - $2,774,400.
	19-20 Aug	8	ARNG aviation support incidental to training.	Joint marijuana eradication operations: 561 marijuana plants destroyed and airlifted out of area. Estimated street value - $488,800.
	5-6 Sep	8	ARNG aviation support incidental to training.	Joint marijuana eradication operations: 1,551 marijuana plants destroyed and airlifted out of area. Estimated street value - $1,240,800.
OKLAHOMA	19-21 Aug	1	ARNG aerial reconnaissance (SAD)	No positive sightings.

STATE	PERIOD	PERSONNEL	SUPPORT PROVIDED	RESULTS REPORTED BY STATES
OREGON	Mar	2 (ANG)	Nine ANG F-4 sorties; incidental to training, support to NNBIS.	No positive sighting/identification. Search for suspect vessel.
PUERTO RICO	Feb	15 (ANG)	ANG radar operators and maintainers in support to U.S. Customs/NNBIS.	Increased radar coverage in special area of interest.
TEXAS	21-26 Jul	6	ARNG aviation support incidental to training.	Joint marijuana eradication operations: 712 plants destroyed; estimated street value - $356,000.
	18-24 Aug	6	ARNG aviation support incidental to training.	Joint marijuana eradication operations: 52 plants destroyed; estimated street value - $26,000.
UTAH	15 May	4	ARNG aviation support to DEA; incidental to training.	Confiscated contraband.
VIRGINIA	4-16 Aug	19	ARNG aviation support. (SAD)	Joint marijuana eradication operations: 11,000 plants destroyed; estimated street value - $8.25 million.
	27-30 Aug	10	ARNG aviation support. (SAD)	Joint marijuana eradication operations: 100 plants destroyed; estimated street value - $75 thousand.
WEST VIRGINIA	24 Aug	21	ARNG aviation support. (SAD)	Joint marijuana eradication operations: 33,622 plants destroyed; estimated street value - $100 (+) million.

DEPARTMENT OF DEFENSE SURVEILLANCE MISSIONS

FY 1985

U.S. NAVY***

Aircraft Type	E-2*	P-3*	OV-10**	Misc.	Total
Sorties	303	539	360	28	1230
Flight Hours	1653.1	2829.7	1335.0	124.7	5942.5

* Includes Active and Reserve
** USMC
*** Awaiting Navy verification of FY85 sorties and flight hours (hours may reach 7000 for FY85)

U.S. AIR FORCE

Aircraft Type	UH-1N	B-52	C-130*	E-3**	Misc	Total
Sorties	1052	46	13	45/327	41	1524
Flight Hours	1228	161	39	242/1308	65	3043

* Includes USAF Reserve
** Includes "designated" and "watch" flights

U.S. ARMY

Aircraft Type	OV-1D	UH-60	Total
Sorties	72	48	120
Hours	72	107	179

DOD TOTALS

Sorties	2874
Flight Hours	9164.5

COMPARISON BETWEEN FY83, FY84, FY85

In FY83, 955 sorties were flown for 3000 hours of surveillance.

In FY84, 3110 sorties were flown for 9770 hours of surveillance.

In FY85, 2874 sorties were flown for 9164.5 hours of surveillance.

Note: The DoD TF on DE commenced statistical collection in FY84. FY83 support derived from the Congressional Record.

Note: Services are verifying FY85 statistics. Official statistics should be available late this month (Dec 85).

DOD INITIATIVES FOR FUTURE SUPPORT

In April the JCS forwarded the Joint Commission Report on DoD Support for International Drug Interdiction which contained 38 recommendations. The Secretary of Defense established a DoD working group chaired by LTG Tice to evaluate the recommendations. The working group included representatives from the Office of the Joint Chiefs of Staff, Office of Assistant Secretary for International Security Affairs, and Office of the Assistant Secretary for Command, Control, and Communications Intelligence. The members assessed the options outlined in the Joint Commission Report as a basis for an NSDD. On September 3, 1985, the Secretary of Defense forwarded 16 of the recommendations which have interagency implications to the National Drug Enforcement Policy Board for study. The Board is studying the initiatives with a view toward implementing the appropriate ones. These proposals fall into four categories: improved intelligence gathering and sharing among agencies; greater cooperation between DoD and drug agencies for operations, exercises, and surveillance; increased DoD assistance to civilian agencies in planning anti-drug operations; and expanded availability of our mobility assets.

APPENDIX F

APPENDIX F

Executive Order 12333 of December 4, 1981

United States Intelligence Activities

46 F.R. 59941

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Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

Part 1

Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort

1.1 *Goals.* The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

1.2 *The National Security Council.*

(a) *Purpose.* The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

(b) *Committees.* The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

1.3 *National Foreign Intelligence Advisory Groups.*

(a) *Establishment and Duties.* The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

(1) Production, review and coordination of national foreign intelligence;

(2) Priorities for the National Foreign Intelligence Program budget;

(3) Interagency exchanges of foreign intelligence information;

(4) Arrangements with foreign governments on intelligence matters;

(5) Protection of intelligence sources and methods;

(6) Activities of common concern; and

(7) Such other matters as may be referred by the Director of Central Intelligence.

(b) *Membership*. Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Director of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

1.4 *The Intelligence Community*. The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

(a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;

(b) Production and dissemination of intelligence;

(c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(d) Special activities;

(e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and

(f) Such other intelligence activities as the President may direct from time to time.

1.5 *Director of Central Intelligence*. In order to discharge the duties and responsibilities prescribed by law, the Director of Central Intelligence shall be responsible directly to the President and the NSC and shall:

(a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;

(b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;

(c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;

(d) Ensure implementation of special activities;

(e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities:

(f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;

(h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;

(i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence:

(j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities:

(k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations, ensuring that appropriate mechanisms for competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;

(l) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government entities and military commands:

(m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President:

(n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress:

(o) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget:

(p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations:

(q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose:

(r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and

(s) Facilitate the use of national foreign intelligence products by Congress in a secure manner.

1.6 *Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.*

(a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States, and shall give due consideration to the requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities.

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.

(c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

1.7 *Senior Officials of the Intelligence Community.* The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate, shall:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(b) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

(c) Furnish the Director of Central Intelligence and the NSC, in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of their respective duties;

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

(f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

1.8 *The Central Intelligence Agency.* All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended; the CIA Act of 1949, as amended; appropriate directives or other applicable law, the CIA shall:

(a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

(c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon the Director of Central Intelligence and the Attorney General;

(d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

(e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat. 855)) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;

(f) Conduct services of common concern for the Intelligence Community as directed by the NSC;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

(h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and

(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) and through (h) above, including procurement and essential cover and proprietary arrangements.

1.9 *The Department of State.* The Secretary of State shall:

(a) Overtly collect information relevant to United States foreign policy concerns;

(b) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

(c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;

(d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

(e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

1.10 *The Department of the Treasury.* The Secretary of the Treasury shall:

(a) Overtly collect foreign financial and monetary information;

(b) Participate with the Department of State in the overt collection of general foreign economic information;

(c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

(d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1.11 *The Department of Defense.* The Secretary of Defense shall:

(a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;

(b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;

(e) Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;

(j) Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and

(k) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (j) above.

1.12 *Intelligence Components Utilized by the Secretary of Defense.* In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

(a) *Defense Intelligence Agency*, whose responsibilities shall include:

(1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;

(3) Coordination of all Department of Defense intelligence collection requirements;

(4) Management of the Defense Attache system; and

(5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

(b) *National Security Agency*, whose responsibilities shall include:

(1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;

(6) Collection, processing and dissemination of signals intelligence information for counterintelligence purposes;

(7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;

(8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;

(9) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security;

(10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;

(11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;

(12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and

(13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.

(c) *Offices for the collection of specialized intelligence through reconnaissance programs*, whose responsibilities shall include:

(1) Carrying out consolidated reconnaissance programs for specialized intelligence;

(2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and

(3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

(d) *The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps*, whose responsibilities shall include:

(1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and information on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA, and such collection within the United States shall be coordinated with the FBI;

(2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and

(3) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

(e) *Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense*. If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

1.13 *The Department of Energy.* The Secretary of Energy shall:

(a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;

(b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

(c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1.14 *The Federal Bureau of Investigation.* Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

(b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;

(d) Produce and disseminate foreign intelligence and counterintelligence; and

(e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

Part 2

Conduct of Intelligence Activities

2.1 *Need.* Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 *Purpose.* This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 *Collection of Information.* Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned:

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons:

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation:

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorist organizations:

(e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting:

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility:

(g) Information arising out of a lawful personnel, physical or communications security investigation:

(h) Information acquired by overhead reconnaissance not directed at specific United States persons:

(i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws: and

(j) Information necessary for administrative purposes.

In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

2.4 *Collection Techniques.* Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession.

(c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence agency contractors or their present of former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service.

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

2.5 *Attorney General Approval.* The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order.

2.6 *Assistance to Law Enforcement Authorities.* Agencies within the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;

(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and

(d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

2.7 *Contracting.* Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

2.8 *Consistency With Other Laws.* Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

2.9 *Undisclosed Participation in Organizations Within the United States.* No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

2.10 *Human Experimentation.* No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

2.11 *Prohibition on Assassination.* No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 *Indirect Participation.* No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

Part 3

General Provisions

3.1 *Congressional Oversight.* The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413. The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2422), and section 501 of the National Security Act of 1947, as amended (50 U.S.C. 413), shall apply to all special activities as defined in this Order.

3.2 *Implementation.* The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

3.3 *Procedures.* Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036. Procedures required by this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

3.4 *Definitions.* For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visably present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) *Employee* means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) *Foreign intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) *Intelligence activities* means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) *Intelligence Community* and *agencies within the Intelligence Community* refer to the following agencies or organizations:

(1) The Central Intelligence Agency (CIA);

(2) The National Security Agency (NSA);

(3) The Defense Intelligence Agency (DIA);

(4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) The Bureau of Intelligence and Research of the Department of State;

(6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and

(7) The staff elements of the Director of Central Intelligence.

(g) *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:

(1) The programs of the CIA;

(2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnais-

sance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(4) Activities of the staff elements of the Director of Central Intelligence;

(5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

(h) *Special activities* means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *United States person* means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

3.5 *Purpose and Effect*. This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

3.6 *Revocation*. Executive Order No. 12036[59] of January 24, 1978, as amended, entitled "United States Intelligence Activities," is revoked.

Ronald Reagan

THE WHITE HOUSE,
December 4, 1981.

APPENDIX G

APPENDIX G

In the preparation of its report on organized crime and drug trafficking, the President's Commission on Organized Crime and its staff have had assistance from many sources. In addition to the contributions of law enforcement and other government agencies on the Federal, State, and local levels and many private organizations, we have had the benefit of the talents and experience of several consultants. The most notable consultant papers prepared for the Commission are included in this appendix.

ILLEGAL DRUGS AND U.S. SECURITY

By

General Paul F. Gorman, U.S. Army (Retired)

Submitted: September 18.1985

General Paul F. Gorman served as Commander-in-Chief, United States Southern Command, from May 1983 until March 1985, and before that as Assistant to the Chairman of the Joint Chiefs of Staff, as Director for Strategic Plans and Policies of the Joint Staff, and as National Intelligence Officer for General Purpose Forces with the Central Intelligence Agency. He was retired from active duty in May 1985. The paper was written (summer 1985) at the request of the Deputy Executive Director of the President's Commission on Organized Crime. The author drew upon his recollection and the material cited in the appended bibliography without access to current intelligence. The judgments presented are his own.

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Drugs and Security

Summary.

Trafficking in cocaine and marijuana produced in Latin America and the Caribbean Islands constitutes a threat to the security of the United States, both because present and foreseen consumption of these substances subverts millions of Americans from productive pursuits, and because the vast, rich underworld, which thrives on international smuggling of narcotic and psychotropic drugs, is also the millieu of those who are engaged in illicit movements of arms and munitions, in espionage, in terrorism, and in fomented revolution. Moreover, the patent inability of the United States to detect, let alone to apprehend, aircraft or vessels conveying bulk shipments of contraband to the United States reveals inadequate early warning on our southern approaches, a grave vulnerability in the era of the cruise missile.

This threat has grown despite extensive efforts by the United States to encourage foreign governments to enforce counternarcotics laws, to eradicate coca and cannabis, and to promote alternative agriculture, and despite interdiction operations involving unprecedented cooperation among U.S. agencies.

To meet this threat the U.S. will have to engage its intelligence community and its military forces much more broadly. The most promising concepts for counteraction entail increased aid to foreign governments in attacking processing centers, where large amounts of the substances are prepared for export, and in clamping down on furtive aircraft and ships --aid which includes military intelligence support and security assistance. But there must also be better U.S. surveillance over the Caribbean approaches to our own airspace, which will require the Department of Defense to commit to counternarcotics missions both more forces, and more funds, e.g., for communications, radar, operations and maintenance. Since the criminals have displayed remarkable inventiveness in foiling interdiction to date, a DoD research and development effort will also be needed to provide intelligence and enforcement agencies a lasting advantage over their resourceful quarry. However, all of these activities will enhance the readiness of U.S. forces to meet more military threats to security across the entire spectrum of war.

The National Drug Habit

During the past two years I have met with groups of citizens literally from coast to coast, and with many members of Congress, to talk about the Administration's policies in Latin America. In my opening remarks at those meetings I spoke against the neo-isolationist view that the U.S. should remain aloof from revolutions and other miseries south of the border. I pointed out that in our own national interest we needed urgently to be involved there, to sustain the thrust toward democracy in the region, to help our debtors recover economically so that they could meet their obligations to our banks, to assist in controlling the flood of illegal Latin immigrants into our cities and towns, to protect the still-vital sea lines of communication through the Caribbean, and to curtail the burgeoning trade in illicit drugs from the region, especially cocaine and marijuana. I originally anticipated that most of the ensuing discussions would focus on Central America and that I would spend most of my time defending Administration policy in El Salvador, Nicaragua, or Guatemala. But I soon learned that while such issues were obviously of interest, most of my interlocutors were more concerned over the involvement of Latins in our society via drugs. Inevitably, I would find myself talking more about coping with drug traffickers than other facets of U.S. policy.

On reflection, I should have expected such a reaction, because the other topics I touched on were relatively abstract or remote, while almost every American has been touched personally, in some fashion, by drugs. What is remarkable is that so few have identified the source of their difficulty: Latin America.

I recall being in Denver in the fall of 1983 to talk to a gathering of several hundred health-care professionals. An off-year electoral campaign was underway, in which a referendum was before Colorado's voters condemning the Administration's policies in Latin America, and enjoining a pull-back. I took to the podium the morning paper, which had on the left side of the front page an editorial-like apologia for the referendum. But, I pointed out, nearly every other inch of the front page was taken up with stories about cocaine --the Denver-Boulder area as a major brokering center for cocaine, gang-killings over drug money, a public servant corrupted by drug interests, and, especially germane for that audience, a survey establishing that half the students at the University were experimenting with cocaine. Not one word was said about the fact that what that front page was really all about was Latin American intervention in Colorado.

This spring I was in Fall River, Massachusetts, talking to Rotarians, and my visit happened to coincide with adoption by a majority of the legislature of Rhode Island of a resolution calling for the Administration to pursue a hands-off attitude toward any and all governments in Latin America. Asked what I thought of that measure, I opined that it was strange that Rhode Island could adopt so isolationist an attitude toward a phenomena which was changing the face of Rhode Island and affecting all New England: cocaine trafficking. I described Central Falls, Rhode Island, a small, dowdy mill town, where the numbers of Colombian aliens had more than doubled since 1980, a foreign community which has concealed a small group of Colombian drug traffickers, engaged in systematic pirating of metropolitan Boston and other nearby urban centers. I suspect, I said, Fall River pays its tribute. One report estimates that these criminals send out of the U.S. over $100 million per year. ode Islanders might resolve to avoid involvement with Latins, I said, but certain Latins, bent on evil, were involved with us, and were striking at the very heart of our society.

According to the Drug Enforcement Administration and the National Institute on Drug Abuse, some 40 million Americans buy illegal drugs, spending some $80 billion for approximately 4 tons of heroin, 60 tons of cocaine and 14,000 tons of marijuana .

Of these substances, cocaine is the highest priced and most sought after --the current drug of choice. Dr. William Pollin, Director of the National Institute on Drug Abuse believes that only the present legal sanctions discourage much more abuse of cocaine: **"We know that cocaine is the most powerfully rewarding substance that exists in terms of drugs of abuse. We know that if you give experimental animals free access to cocaine, they will drop all other pursuits to get it --even food and water. They will literally die --not from the direct effects of the drug but from their abandonment of all other activity. Unlike heroin or cigarettes or alcohol, the liking for cocaine does not have to be learned. Laboratory animals, from the very first use, want it again...If cocaine were as freely available as cigarettes, everything we know suggests that the numbers of cocaine users would very, very rapidly increase by a tremendous factor --at least tenfold."**

At the present time, the supply of cocaine appears to be ample, and the demand rising. The amount of cocaine smuggled into the United States is estimated to have quadrupled, at least, from 1975 to 1984. The market or "street value" of these imports has increased, in constant 1975 dollars, from about $10 billion in 1975 to $17 billion in 1984, and the numbers of cocaine abusers has more than tripled, from 4 million in 1975 to 14 million in 1984.

Estimates of consumer expenditures for drugs of abuse usually overlook the costs to nonusers, the price paid by the society as a whole. One well-regarded government study of the latter, completed in 1984 for the Alcohol, Drug Abuse, and Mental Health Administration by Research Triangle Institute, found that the U.S. spends another $47 billion, as follows:

Indirect Costs of Drug Abuse

Lost Productivity		
	* Absenteeism, slowdowns, mistakes, and sick leave	$26.9 billion
	* Drug-related deaths	$2.0 billion
	* Imprisonment	$1.5 billion
	* Leaving employment for criminal careers to support drug habits	$8.7 billion
Medical Expenses		
	* Treatment in rehabilitation centers in hospitals and by doctors	$1.2 billion
	* Administration of treatment programs, research, and training	$0.2 billion
Crime		
	* Federal, state and local expenditures for courts, police and prisons	$4.5 billion
	* Alarm systems, and other preventive steps for businesses and individuals	$1.3 billion
	* Property destroyed during criminal acts	$0.1 billion
Total		**$46.9 billion**

These figures surely understate the current situation, not only because they are outdated (the data is from 1980), but also because they may not capture the whole baleful influence of drugs. For example, Governor White of Texas recently told a Congressional Committee that as much as 40 percent of his state's budget for prisons should be attributed to drugs, including inmates incarcerated for dealing in drugs and those for committing other crimes while under the influence of drugs, or while endeavoring to support a drug habit.

But if these estimates can be accepted at face value, last year drugs cost citizens of the United States --directly or indirectly-- something over $500 per capita. Hence, the cost to each American of our national drug habit now approximates the per capita interest on the national debt, and is beginning to approach the annual cost for national defense.

Nearly all the illegal drugs Americans buy come from foreign countries, and most of the source nations are in the western hemisphere, south of the Mexican border. As much as $10 billions in illegal drug money leaves the U.S. annually --half of it in cold cash-- to pay drug traffickers abroad, or as "take-home pay" for Colombians and Mexicans who run the distribution networks for cocaine or heroin in the United States. Americans involved in the trafficking also "launder" large amounts abroad, something like $5 billion per year. More than two-thirds of these illegal funds probably pass through Panama, Colombia, or banks in the Caribbean's island-nations. Outlays by U.S. citizens for drugs exceed the entire annual per capita income for some nations of Latin America. Latin governments who are debtors of ours, whose ability to repay the money they have borrowed from U.S. banks is crucially dependent on selling their agricultural products in the U.S., justifiably might resent the fact that U.S. importers of illicit drugs pay out to smugglers at least twice as much as all our coffee importers. When I testified before an inquiry into drug interdiction operations by the a committee of the U.S. House of Representatives in March, 1985, I stated that Latin American drug smugglers "attack the fiber of our society --our productivity, our ethics, our education-- more directly and dangerously than any other form of foreign subversion of which I can think."

The Colombian Connection

Our relationship with Latin America cannot be understood without some appreciation of Colombia's role in our lives. From video advertising, most Americans probably recognize Colombia as the Andean homeland of Juan Valdez "who peeks the coffee beans one by one when they are purrrfectly ripe". But in recent years, the Juan Valdez' of Colombia have turned to other forms of agriculture, for they can earn ten to twenty times as much tending cannabis or coca as they might picking coffee. In fact, Colombia, a modestly-sized country on the Caribbean littoral in northwest South America, just south of Panama, has been furnishing one-half of illicitly imported substances on the market in the United States, as measured by putative value; by volume, that country has been supplying more than three-fourths of the cocaine sold in the U.S., and three-fifths of the imported marijuana. In 1983 and 1984 the narcotraficantes of Colombia produced more cocaine hydrochloride than criminals of any other nation in the world, transforming coca paste into the white crystaline form in large "laboratories", more accurately factory complexes, usually located in southeast Colombia, deep in the Amazonian jungles, capable of processing daily batches of hundreds of kilos of marketable substance. These represented no small logistic feats, for the process involved long aerial flights over otherwise impassible terrain, substantial amounts of electrical energy and heat, and considerable quantities of reagents like alcohol, sulfuric or hydrochloric acid, acetone, amonia, potassium carbonate and permanganate, kerosene, gasoline, and diethyl ether. More than four-fifths of the coca used in this manufacture was imported, usually by air, from Peru and Bolivia (transported, for example, as coca paste, which has 200:1 weight-compression ratio compared with coca leaf). But more Colombian coca, of appreciably poorer grade, has been entering the market each year as earlier domestic plantings have matured, generating a surplus which tempted the drug families to look for local markets. By 1984 estimates Colombian traffickers illegally exported between 48 and 53 metric tons of cocaine to the United States to meet a total demand here of 54 to 71 metric tons. Almost all contraband cocaine was moved across the Caribbean by air, an expense the traffickers could easily afford, given the 7:1 markup to the consumer in the United States (the 1984 price in Colombia per kilo was US $11,000 --per metric ton, US $11 million--; for retail marketing in the U.S., each kilo was combined with lactose or quinine, and, thus diluted 50 percent or more, sold at about $105 per gram (reportedly, recent cocaine sold has tended to be more pure).

Cannabis is grown mainly in northern Colombia, often by the same family-based organizations who dominate the cocaine business. Marijuana, dried and baled, has been moved to market mainly by sea, although aircraft also figure in the trade. The usual shipment has been around 11 tons, with occasional shipments as large as 50-60 tons. The price of marijuana at the export point has been around US $18 per kilogram (US $18,000 per metric ton). But Colombian cannabis is under heavy attack: in mid-1984, after searching for a safe and effective herbicide, the Colombian government began a campaign of spraying cannabis fields with the chemical glyphosphate, which destroyed as much as 40 percent of the annual crop that year, and is expected to eliminate most of the 1985 production.

Just three years ago, it was commonplace to hear Colombians deplore U.S. importers and consumers as the cause of their own drug phenomena and to say that those Americans made the narcotics trade exclusively a U.S. problem. The *narcotraficante* even had a romantic aura in the popular imagination, being seen as a sort of Robin Hood looting the *gringo* rich to help Colombia's poor. But Colombians, rich and poor, came to learn that any nation that tolerates drug trafficking in its midst commits societal suicide, invites the suborning of democratic political institutions, the corruption of public officials, and the devastation of education for the young. Despite the fact that extensive earnings in foreign exchange accrued to Colombia from the drug trade, these were "black" funds, untaxed by the Colombian government, and circulating disfunctionally outside of government plans, or controls on money supply or prices. Much of this wealth went into non-productive conspicuous consumption, and the poor were victimized by spiraling inflation.

Inevitably, some Colombian traffickers, out of greed, began to foul their own nest. Probably the availability of inferior Colombian-grown coca was an incentive for them to sell within Colombia cheap by-products of their international trade. Sell they did. In late 1983 Colombian government health authorities admitted to the press that drug addiction had become a major public health problem. Thereafter public attention was drawn by the media to increasingly dramatic evidence of the extent to which drugs had seized hold of Colombian youth --e.g., a wave of suicides among young, middle class males in Bogata, and closure of the National University because of pervasive drug trafficking on campus. Youths' smoking of *basuco* --a reputed aphrodisiac: tobacco or marijuana soaked in coca base or paste, often laced with toxic adulterants such as lead compounds-- was recognized as the major factor in the spreading abuse.

President Betancur of Colombia manifested sensitivity to the rising public alarm over drug abuse, and to diminished control over his own party as the drug families sought to buy or intimidate his followers, to manipulate public opinion through media campaigns, or even to set up their own political parties. Prodded by Betancur, Colombian government operations against the *narcotraficantes* intensified. In March 1984 one raid upon a nexus of ten coca processing sites and six air strips near one locale in the Caqueta region of southeastern Columbia, called, ironically, Tranquilandia, led to the largest cocaine seizure of record (about 8,500 kilograms).

In February 1984 Eduardo Gonzalez, a ranking offical of Colombia's Ministry of Justice was assassinated, apparently because of his public support for implementing the extradition treaty with the United States. In April 1984 the drug families overplayed their hand. Betancur's Minister of Justice, Rodrigo Lara Bonilla, was shot on the streets of the capital, a crime which lost the *narcotraficantes* much popular support. The murder of that popular young political leader occasioned such public revulsion that Betancur has been able to move confidently in arresting and even extraditing to the U.S. individuals accused of drug trafficking, in declaring a state of seige which subjects accused drug traffickers to martial law, in launching comprehensive cannabis and coca eradication campaigns, in grounding aircraft suspected of involvement in smuggling, and in ordering the Colombian Navy to cooperate with the U.S. Coast Guard in combined blockades of the Caribbean coast. In May 1984 several

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ent members of drug families met in Panama with Betancur's Attorney
al and a former President to seek a modus vivendi in which they would
cocaine operations in return for legal immunity. But Betancur, with
support from his Congress and the people, rejected the deal, and
ince pressed his campaign to put them out of business.

Some prominent traffickers went into hiding, for example, in Spain.
he apparatus itself also had to be protected. The countermove of the
families has been threefold: (1)tactical relocation, seeking even
remote and inaccessible sites in Colombia for their processing
rs; (2)strategic relocation, moving their refining operations out o.
bia into neighboring Venezuela, Brazil, Panama, or even more remote
ries like Peru, or Nicaragua; and (3)narcoterrorism, resorting more
ly to violence against those who oppose them. The last was a departure
previous policy. As a generality, narcotics traffickers had preferred
void notorious violence because it invited unwanted publicity and
rwrote governmental sanctions. But as President Betancur escalated his
sure on them, some have responded by hiring killers to strike at
ons who were visible symbols of law and order, ostensibly in a
ematic attempt to deter and intimidate governmental leaders from
rous antinarcotics policies. Death threats have been issued against
ident Betancur and other Colombian government officials, and against
U.S. Ambassador. Traffickers who threatened to kill five Americans for
Colombian extradited were probably responsible for the November 1984
bing near the U.S. Embassy in Bogata.

In April 1985 President Betancur met with President Reagan in
hington, and the two Presidents agreed "to fight against drug
fficking at all levels." President Reagan said that, for its part, the
. would not only continue to help with interdiction, "but also here,
re the largest market is, that we continue our efforts to take
tomers away from the drugs --which must complement our efforts to take
drugs away from the customers." Betancur promised "to destroy the
ps, the laboratories where the drugs are processed...to interrupt the
nsportation to the U.S. market and to see that those responsible for
trafficking are severely punished." The U.S. committed itself to
ncreasing its efforts to diminish use and demand of drugs, to destroy
ps and to strengthen its support for the war against narcotics."

In Colombia, as governmental-measure and trafficker-countermeasure
tensified the conflict, it had become increasingly evident to President
tancur that only by engaging the resources of Colombia's armed forces
uld he hope to prevail. Under the provisions of the declared State of
eige, as of May 1, 1984, civilians charged with narcotics offenses could
tried by Courts Martial. More importantly, as the National Police, its
ecial Anti-Narcotics Unit (SANU), and its investigative branch, found
eir inquiries leading them further and further into the jungle, beyond
overnment control or even presence, requests for assistance have been
odged with the Ministry of Defense. The President's personal involvement
n many of the investigations has tended to lend the force of order to
uch requests.

Colombian military leaders view the propensity of their President to
hrow them into the anti-narcotics campaign with deep misgivings. The last
ime they responded to a government mandate to roundup narcotraficantes,
the criminals retaliated by buying officers, and in some instances, whole
units. The resultant corruption almost destroyed professional cohesion.
Too, they have what they regard as a more urgent mission:

counterinsurgency. But President Betancur has long desired to negotiate an end to government hostilities with insurgent groups and to bring the latter back into the mainstream of Colombian society. He has persisted despite the fact that, in many parts of the country, the insurgents are the law, and they do not seem willing to accept any other civil order. While declaring a "state of seige" in his war against the narcotics families, Betancur has pressed for broad amnesty for insurgents, a "cease fire", and negotiations with the guerrilla leaders with the same fervor with which he has attacked the narcotraficantes. Thus, the Colombian military finds itself in the anomalous position of being constrained from attacking a long-standing enemy, in some cases still actively pursuing hostilities against them, while being urged to support distasteful and dangerous police operations.

Betancur's policies have created profound anxiety within the Colombian armed forces, particularly within the Army, which has borne the brunt of casualties in the counternarcotic campaigns to date. Colombia is one of the most violent countries in the hemisphere, with endemic insurgency since World War II. Year in, year out, for decades the Colombian Army has been in combat, pursuing its missions of providing security to rural civil administrations, and extending the civil infrastructure along Colombia's extensive jungle frontier. The Colombians are proud that their's was the only Latin army that fought alongside that of the U.S. in the United Nations Command in Korea. In equipment, doctrine and tactics, the Army has modernized little since the U.S. Southern Command withdrew most of its large Military Group in the late 1960's. But the U.S. Army's influence is still evident, especially in Colombian Army schools. In all three Colombian services, there are many officers who have attended U.S. service schools, and there is a significant reservoir of good will toward the U.S. armed forces. Comparatively speaking, the Colombian military are more professional than most of their Latin counterparts, and on the record, less inclined to interfere in politics. One explanation for this relative concentration on military versus other undertakings is the continuing civil war.

At the moment the Colombian government is opposed by five principal insurgent organizations, of which the Colombian Revolutionary Armed Forces (FARC) is the most experienced, best armed, and best trained. The FARC has several guerrilla "fronts", about half of which operate where cannabis or coca are grown. During the Tranquilandia raid, a FARC camp was discovered about one half-mile from one of the factories, and in the aftermath there was fighting between the army and guerrillas in the province capital. The exact relationship between the insurgentes and narcotraficantes is not clear, and probably varies widely from place to place. But it seems evident that there is a considerable commonality of interest in oppposing extension of government control over the countryside. It is known that from drug traffickers the FARC has obtained arms, munitions, radios, and other supplies as well as money. This "FARC-narc connection", as the U.S. Country Team refers to it, goes back to May 1982 when the FARC high command decided to raise money by extracting payments from coca growers. Since, the FARC has extended its services to charge traffickers about US $450 per hectare cultivated, and US $410 per kilogram processed.

Another armed group, the "19th of April Movement" (M-19), which also operates in drug-producing areas, has had links both with international drug smugglers and with Cuba. In 1980 M-19 terrorists stormed an Embassy in Bogata, seized a group of diplomats, including the U.S. Ambassador, and held them hostage for weeks. M-19 at least once traded drugs for arms from

through the Colombian trafficker Jaime Guillot-Lara, an arrangement
n was exposed, leading to the indictment of 14 persons in November
, including four senior Cuban officials. In the spring of 1985 Carlos
er Rivas, a drug kingpin sought in Colombia for extradition to the
ed States, took refuge with an M-19 unit. Surrounded by armed men, he
a televised press conference in which he delared war on the United
es, calling all Colombians to join him in struggling against a nation
sought to rain poisonous chemicals on Colombian crops and to throw
mbians into foreign prisons.

Senior Colombian military officers with whom I have talked over the
two years are sharply divided on how to proceed. One camp argues that
President had no right to intervene in the conflict with the
urgents with his amnesty and cease fire, and even less to order the
ed forces to become police auxiliaries. The other camp argues that the
sident has sensed correctly the national mood, that the
cotraficantes are the prime threat to national security, and that by
iking down the traffickers the armed forces would deliver a possibly
al blow to the insurgents. Factions have been forming, and there have
n been rumors of *golpe*. My own judgement is that the key leaders have
n of the second persuasion, strongly supportive of President Betancur.
s is not to say that these officers have not been seriously concerned
r the corruption issue, or over the prospect that the FARC and M-19
ld use the amnesty as a respite to gather strength for a nationwide
ust for power in 1987 or 1988. Their approach has been to seek ways to
fine military exposure to the narcotics mission to a well-trained,
oroughly-vetted elite, and to inquire of me whether there were ways in
ch U.S. intelligence could so define targets that small, commando-type
rces could be reliably effective.

I have responded that I thought there were ways in which the U.S.
uld be helpful, notably in assisting them to produce better intelligence
emselves, and in providing technically-derived intelligence which they
uld not collect. I was, of course, using the term "intelligence" in the
ofessional sense, referring to the entire process of collection,
alysis, and dissemination. Among the deficiencies in Colombian
telligence, on which I think we all agreed, were the lack of a radar
rveillance system --either for sea surface search or air monitoring--
nd inadequate communications, especially secure voice networks for the
assage of "perishable" information. The Colombians, including President
etancur, have expressed interest in having the United States present them
ne or more air early warning radars (meaning, in effect, a grant aid
urnover for Colombian operation), with particular emphasis on a site on
an Andreas Island, the Colombian resort island off the coast of
icaragua, which has been claimed by the Sandinistas. Concerning
echnically collected information, the Colombians knew as well as I that
he collection tasks for coping with the drug traffickers --broad area
surveillance (prefereably with heat-sensitive sensors, since processing
either cocaine or cannabis is heat-intensive), pin-point localization,
real-time reporting-- were similar to those U.S. SOUTHCOM was facing and
mastering in Central America. As far as I know, little has been done to
follow up on these exploratory conversations, but I remain convinced that
modest U.S. help to those military leaders willing to commit selective
force in support of President Betancur's policy could open promising
courses of action for both nations. After all, it is very much in our
national interest that Betancur succeed.

Other Sources to the South

The Andean Ridge Countries

More than four-fifths of the coca processed in Colombia originated in Peru and Bolivia. Following are the latest available statistics from the Department of State, production data for 1983, preliminary estimates for 1984, and projections for 1985, all stated post-eradication (i.e., with amounts expected to be sprayed or cut down deducted):

Illicit Coca Leaf Production

	1985 Metric Tons	1984 Metric Tons	1983 Metric Tons
Bolivia	43,804	49,200	25,000-40,000
Peru	56,820	60,000	30,000-60,000
Ecuador	2,600	895	
Colombia	7,600	11,680	11,215
Total	**110,824**	**121,775**	**66,215-111,215**

Of the countries shown, only Colombia grows appreciable quantities of marijuana exported to the United States. Ecuador and Peru share with Colombia the characteristic that they sit astride the Andean Ridge, with population and infrastructure concentrated on the Pacific slope, and a frontier in the Amazon basin. Ports, airfields, road network, power grid, communications, air traffic control and early warning radars --civilization in general--face west. Bolivia is locked off from the sea, but also has both the high Andes and the Amazon Basin within its borders. All four countries have significant aboriginal populations, Indians culturally accustomed to growing and chewing coca leaves. Ecuador is as yet relatively uninvolved in the drug trade. Bolivia is a political and economic basket case. Other than Colombia, Peru offers the greatest opportunity, and the greatest dangers for U.S. counternarcotics policy.

Peru. The largest producer of coca leaf in all Latin America, Peru, U.S. experts believe, could easily produce three times the amount of coca now being grown there. Peru's government is one of our severest critics, and positions itself closer to the USSR on many issues than other nations in the region. During the 1970's, Peru was ruled by a leftist military which pursued socialistic domestic policies, and a "non aligned" foreign policy that led to equipping the Peruvian Air Force and Army largely with Soviet materiel. (The Soviet Military Mission in Peru is the largest in this hemisphere. There are more Soviet "technicians" in Peru today than USSOUTHCOM has in all its Security Assistance Offices throughout Latin America.) The return of constitutional democracy to Peru in the 1980's coincided with the development of severe economic difficulties. Among the Andean Indians, crushing poverty in recent years has induced many to turn to selling coca to the *narcotraficantes*. This is natural enough for a people who by archeological evidence have been growing coca for 5,000 years for medicinal teas, or for chewing to reduce hunger, fatigue, and altitude malaise. Generally speaking, however, democratic Peru has become more open to the United States. Government and public recognition of the problem of domestic drug abuse grew, and government leaders watched the damage wrought by narcotics trafficking on traditional moral, political, and social values in Bolivia and Colombia. As a result, Peru's government became more amenable to American proposals for joint action to curtail illegal coca trafficking. In mid-1983, per an assistance agreement with the U.S., Peru began eradicating coca bushes. It eliminated 700 hectares in 1983, and more than fours times as much in 1984.

In Peru as in Colombia, however, action against drug traffickers soon became entangled with action against insurgent groups. The Peruvian government has been under attack from various terrorist groups. The most prominent is a neo-Maoist, anarchist organization, calling itself El Sendero Luminoso (Shining Path). One of the centers of its activity, the Upper Huallaga Valley in Huanoco Province, is a principal coca production area and one of the centers of drug trafficking. U.S. assisted control programs in Peru have been focused on the Upper Huallaga. While there is no known linkage between the terrorists and the traffickers, they are both interested in minimum governmental presence and police effectiveness. In mid-1984 the depredations of Sendero Luminoso had evoked such a public outcry that President Belaunde Terry declared a State of Emergency, and ordered his armed forces to secure rural areas under attack. In July, the Peruvian Army assumed responsibility for the Upper Huallaga, and while the counternarcotics program continued, violence continued. In November 1984, 19 U.S.-funded field workers, eradicating coca in the Upper Huallaga, were massacred, apparently by gunmen hired by the narcotics traffickers. The counternarcotics effort ceased abruptly. As the recent report of the U.S. Department of State to Congress stated: "(Peruvian)Army efforts to stamp out terrorism were not accompanied by narcotics enforcement, and thus its appeared by year-end 1984 that peace in the Upper Huallaga Valley had been bought at the price of allowing the narcotics traffic to flourish again". There was another massacre in February 1985.

According to latest estimates, coca production increased in Peru during 1984, despite the government's programs. It seems evident that a much larger-scale effort will be required, and it is evident that this could not be undertaken without active operations by the armed forces against the traffickers. Recently elected President Alan Garcia, of the center-left American Popular Revolutionary Alliance (APRA), is committed to opposing the narcotraficantes. He wants to link Peru's cooperation with the U.S. in this respect to help with rescheduling Peru's foreign debts. No matter how this approach works out, he, like his predecessors, will have to turn to his armed forces to implement his policy.

The dilemma before the leaders of Peru's armed forces is similar to that facing their Colombian counterparts. They, too fear, with good reason, the prospect of the drug traffickers' corrupting rural commanders or detachments, and many of them consider law enforcement a professionally inappropriate, even illegal, mission, and cooperation with U.S. funded programs nationalistically objectionable. But some --and again, I know these include key leaders-- acknowledge the greater dangers inherent in failing to contest the drug traffickers, and believe that it is merely a matter of time before the terrorists and the traffickers form more formal alliances. These latter rationalize the Huallaga situation by saying that the Army put the terrorists as first priority, but that action against the traffickers would follow. A few even claim that the Army has been using the traffickers as a source of information on the terrorists, and that in the process the Army was becoming sufficiently knowledgeable about the traffickers to warrant confidence that the crackdown, when it came, would be swift and sure. Whether the target be the terrorists or the traffickers, the Peruvians principal needs are similar to those of the Colombians: better intelligence, and secure communications. Given the altitude and the terrain, the Peruvians probably face more difficult mobility and logistic problems. My impression is that they would be receptive to U.S. assistance in these respects, even if that assistance were conditioned on bolder counternarcotics operations. The hazard is that those who object may see fit to get rid of both democracy and the counternarcotics mission in one *golpe*. This might leave the U.S. facing a worse situation than at present, with Peru under another leftist *junta*, one actively or passively cooperating with the *narcotraficantes*.

Bolivia. Besides Peruvian coca, the other major source of the cocaine sold in the U.S. in recent years has been coca grown in Bolivia. This Andean republic has a population habituated to chewing coca leaf (estimated consumption, 16,000 metric tons), and the worst record for military intervention in government of any Latin nation (190 governments in 159 years of independence). In recent years when General Garcia Meza was in power, the Bolivian government itself became an international drug trafficker. Although constitutional democracy was restored in October, 1982, President Siles' government has led a precarious existence. It has been plagued with economic difficulties, wracked with labor troubles, and threatened constantly with *golpe* from one or another of the various factions within the armed forces. Siles has succeeded in ameliorating the government's stance on drugs. This has occured in part in response to U.S. pressures but also because of concern for spreading drug abuse, especially that involving addiction to *pitillo*, a cigarette composed of tobacco and coca paste, like the Colombian *basuco*.

The Bolivian government signed a bilateral assistance agreement with the U.S. for eradication and enforcement programs, but to date little progress has been made in carrying these out. As the Department of State has said, "corruption, insufficient resources and inadequate laws have hampered Government of Bolivia efforts to suppress coca production, refining and trafficking." In August 1984, because of virtual anarchy in the Chapare region, one of two principal coca growing areas, President Siles ordered the armed forces to establish a "military zone" there and to restore public order. Although the military did his bidding, their move precipitated countrywide strikes and demonstrations from farmers and from workers agitated over the prospect of being cut off from their coca leaf for chewing, and over the military's thus participating in what was called "U.S. intervention". The military were soon withdrawn.

In the meantime, Bolivian traffickers, observing reforms underway in Colombia, and eyeing new profits for themselves, set up more processing centers in both the Chapare and Beni regions. Smuggling of cocaine hydochloride from Bolivia is on the upswing. Lately, as a result of publicity, there appears to be a move by some traffickers to acquire a semblance of legality, but so far the firms established for this purpose have been largely facade.

Bolivia is an excellent object lesson in the economic depravity of drug trafficking. The decline in the Bolivian economy in general caused farmers to turn from legitimate agriculture to coca production for traffickers. Food costs inflated rapidly, to the general disadvantage of the poor. The traffickers have invested almost none of their ill-gotten gains in legitimate enterprises in Bolivia. The net domestic effect of the narcotics operation has been disasterous.

The outlook is bleak. As the State Department says: "Coca producers and traffickers recently have organized themselves into legitimate-appearing organizations. Because the traffickers see a need to protect their illicit activities in the face of increasingly adverse publicity against them, this trend towards quasi-legitimate organizations with even more overt political clout is likely to continue... Given the long entrenched traditional chewing of coca leaf, political, social and media attitudes toward cultivation and domestic consumption are understandably sympathetic. In addition, several influential groups and individuals regard the use of cocaine as a U.S. problem, a view that is rapidly being shown false by growing domestic abuse in Bolivia. Nevertheless, many such groups currently adhere to the notion that the entire narcotics problem is brought about solely by the demand for cocaine in the developed nations. Cocaine traffickers are devoting increased resources to propaganda which perpetuates these attitudes and stymies narcotics control efforts." Among the groups with anti-U.S. attitudes are nationalistic factions within the Bolivian military.

Ecuador. An oil exporter, member of OPEC, Ecuador also returned to constitutional democracy in the 1980's after a period of military rule. In August 1984, following exemplary national elections, Leon Febres Cordero was inaugurated President. The ceremony provided the occasion for a Latin American summit meeting at which Vice President Bush represented the United States. International trafficking in drugs was agenda item number one, ahead of the debt crisis, ahead of the Nicaraguan issue . There was concensus that if all parties coordinated their efforts, the traffickers could be defeated. Subsequently, when I met with President Febres Cordero, he assured me that he would not permit Ecuador to become the refuge of Colombian traffickers, and that he intended to act swiftly against existing coca and cannabis operations. He has appointed a narcotics "czar", a Presidential Advisor, who is a colonel of the Ecuadoran Army. Eradication operations in the remote jungled region in the northeast, adjacent to Colombia, have begun, and possibly just in time, given reports that the seeds for coca are arriving from Colombia and Peru. Generally speaking, the Ecuadorans expect their National Police to conduct the campaign against the traffickers, supported by the Customs authorities and the armed forces.

The attitude of Ecuadoran military leaders is generally supportive of the President. Some believe reports that there are coca-growing guerrilla groups in the Esmeraldas region (northwest Ecuador, a coastal area of endemic unrest), and hope the President's zeal for counternarcotics will lead to more vigorous counterinsurgency. Other senior officers are clearly frustrated with their inability to act on well-substantiated reports of repeated use of Ecuadoran air space for illegal flights between Colombia and Peru. The location and Peru-ward orientation of air defenses hamper them, but given the means, I have no doubt that the Ecuadorans would act decisively to control that air space.

Colombia's Eastern and Northern Neighbors

Brazil. Besides the narcotics problem, the countries cited thus far share a border with Brazil in the Amazon Basin. As pressure has mounted against traffickers in the smaller nations, the vast, unpoliced wilderness of the Upper Amazon have offered relative safety. All available information --still inconclusive-- indicates that the traffickers have indeed sought new production fields, processing centers, and transportation means in Brazil. Marijuana abuse is widespread in Brazil, but the substance is mostly grown by poor farmers for domestic markets. Brazil's hazard is that it will not only come to harbor traffickers from abroad, but also that these will seek to develop a much larger Brazilian market for cocaine.

Thus far, Brazilian authorities have not reacted to narcotics trafficking as sharply as have their western neighbors. In 1984 the Brazilian Federal Police became more active in the Amazonas, and had some success eradicating coca plantations. They also actively cooperated with Colombian authorities across the border. The Brazilian Army inaugurated a program of education on the dangers of drug abuse for soldiers. In general, however, Brazil's future appears to have been left in the hands of the traffickers.

Venezuela. President Lusinchi, who took office in February 1984, professes to be determined that international traffickers will not transform Venezuela into a major narcotics producer-nation. A new anti-drug law has been put into effect, providing stiff penalties for traffickers. It permits seizure of all property and wealth attributable to trafficking. A treaty with Colombia aimed at curtailing cross-border smuggling has been signed. A counter-narcotics intelligence center has been established, and some Venezuelan authorities have hinted that they would be willing to invite the United States to station intelligence-gathering ships and aerostat (balloon-borne) radars along the north coast. The government has also mounted a vigorous publicity campaign against drug abuse. In 1984 destruction of cannabis increased, as did seizures of cocaine enroute through Venezuela.

Nonetheless, there has been a perceptible rise in cocaine trafficking, manifestations of penetration by the narcotraficantes of political parties and business, a flow of cash through Venezuelan banks probably associated with drug trading, and increasing drug abuse involving cocaine, basuco, marijuana and methaqualone. Cooperation among the Ministries of Justice, Interior, and Defense, all of which have counternarcotics police responsibilities, is less than effective. Lusinchi has been criticised for disbanding a counternarcotics intelligence network set up under his predecessor, and his government has been rocked by revelations connecting police figures and retired military officers to the narcotraficantes, including the infamous Colombian Carlos Lehder Rivas.

Panama. In the Republic of Panama, to Colombia's north, there has been another example of "spillover" from Colombia. In the spring of 1984, the Panamanian Defense Forces attacked and destroyed a processing site newly-constructed by Colombians in the Darien, the province adjacent to Colombia. But this penetration of Panama by Colombian traffickers undoubtedly continues to be far less important than the use of Panamanian banks to launder money from narcotics transactions, of Panama City as a brokering and meeting center for traffickers, and of Panamanian ports and airfields for the transit of the chemicals essential to the large-scale processing of coca (such as diethyl ether) enroute south, or shipments of marijuana or cocaine enroute north.

The U.S. Department of the Treasury in reviewing Federal Reserve Bank receipts on international transactions found that those from Panama had increased more than fourfold during 1980, 1981, 1982, and 1983. The Treasury Department believes that something like $2.2 billion in unreported cash was moved to Panama in those years, often in batches flown there in private aircraft. In 1984 Federal law enforcement agencies and the U.S. intelligence community conducted an analysis of "money laundering" operations, and concluded that, on the record, Panama was probably the largest center of such in the world.

Panama City has more than 125 banks, most of them headquartered in the United States, Europe, or Japan, with total deposits of some $50 billion, protected by banking secrecy laws more stringent than those of Switzerland or Austria. The United States has been urging Panama to ease these laws to permit access to information dealing with large cash transactions, or others which might figure in narcotics trading. If unchanged, these laws will make Panama the black-market money capital of the world. For a small country with no natural resources, other then its location, however, such changes come hard.

Because of the Canal, Panama is a world shipping center. As such, it is one place where the processing reagents used in refining drugs--the so-called "precursor chemicals"-- can be observed in transit. These are a principal vulnerability of the traffickers. Tracing shipments of ether from origin to destination, for example, has revealed much information on where the processing is taking place, and who is involved. Action in 1984 by the Panamanian Defense Forces to destroy a large shipment of ether passing through Panama set a very desireable precedent.

The transporting of marijuana or cocaine through the Panama Canal, or via Panamanian airfields, is probably a daily occurrence, but mechanisms for surveillance and enforcement are rudimentary. What the U.S. knows of that traffic depends largely on information collected outside Panama. There is much suspicious activity within Panama about which we know little. These include activities of the Cuban Pacific fishing fleet, which is based just north of Panama City, adjacent to the U.S. Howard Air Force Base. One aspect is certain: central to greater Panamanian effectiveness in either surveillance or enforcement is the Panamanian Defense Forces, or more exactly, its senior leadership, who maintain strict accountability over their subordinates. Their reaction to U.S. pressures on narcotics policy depends largely on their assessment of our regional foreign policy. To the degree they perceive the U.S. moving purposefully and cooperatively to provide for regional security, they are likely to combine with us in either security or counternarcotics matters. To date they have been helpful, and been receptive to our bringing in more powerful surveillance devices, e.g. upgrading their air surveillance radar.

Costa Rica. Another country where Colombian traffickers have apparently increased activities is the democracy to the north of Panama, Costa Rica. Seizures in late 1983 and 1984 pointed to the presence there of cocaine processing facilities. Recent estimates hold that 7 to 8 metric tons of cocaine may pass through Costa Rica each year enroute to the United States. Cannabis production in Costa Rica has also grown, and marijuana shipments to the U.S., both domestically grown and in transit, have been increasing.

Four factors influence the narcotics situation in Costa Rica: (1) its proximity to the U.S., which puts it within reach of private aircraft and boats from the States; (2) its depression, the worst in 40 years, which has driven many farmers into cannabis production; (3) the deteriorating security situation in its northern provinces, along the Nicaraguan border, where dissident armed groups have gone into the drug business, and where drug smuggling and arms smuggling appears to go hand-in- hand; and (4), its security forces engaged in counternarcotics operations. These forces have received U.S. Security Assistance funds, and with U.S. training and materiel, have become demonstrably better able to deal with rural armed bands and cannabis growers. With U.S. help, national-level coordination and planning have also improved. But as is the case with Panama, Costa Ricans tend to view their counternarcotics policy as one aspect of their general alignment with U.S. goals and objectives in the region. The present Costa Rican leadership professes to be willing to help the U.S., even to the extent of accepting U.S. radar or other surveillance devices, provided that these did not entail stationing U.S. military personnel within the country. However, presidential elections will take place within the year; the President cannot succeed himself, and most of the cabinet portfolios are certain to change hands.

Governments Complicit

Nicaragua. Since 1981 the United States has been receiving information that Nicaragua has been used by drug traffickers as a way station enroute to and from the United States, and that officials of the revolutionary government there, the Sandinista Directorate, were involved, probably to earn hard currency. As Colombian pressures on major traffickers mounted, certain of these, notably Jorge Ochoa and Pablo Escobar, have relocated to Nicaragua. There is convincing evidence that the Nicaraguan government is actively involved in their operations.

Following is a recapitulation of some of the information that forms the basis for the foregoing judgements:

- A reliable source reported that in March 1981 a senior official of the Nicaraguan government stated that the Nicaraguan government was studying a plan to sell marijuana grown in Nicaragua as a means of acquiring more hard currency.

- In 1982 there were reports, later substantiated, that Interior Minister Tomas Borge was directing a scheme to purchase Colombian drugs for resale in the United States.

- Another reliable source reported in late 1982 that Cuban and Nicaraguan intelligence officers were involved in a Nicaraguan-Cuban conspiracy to smuggle large volumes of drugs into the United States, using aircraft of Nicaragua's Aeronica Airlines.

- Deputy Assistant Attorney General John C. Keeney, at a hearing of a Senate Subcommittee, chaired by Senator Paula Hawkins, recently declared that **"high officials of the Nicaraguan government were indeed involved in the international cocaine traffic."** He described an investigation by Federal officials in Florida, which had uncovered an attempt by representatives of the Government of Nicaragua, assisted by fugitive financier Robert Vesco, to establish cocaine markets in the United States and Europe. Keeney testified that: **"What the evidence gathered during this investigation suggests is that during 1983, Nicaraguan government personnel attempted to make all the arrangements necessary to establish Nicaragua as a major cocaine exporter. Toward this end, they developed a source of cocaine. The evidence indicates that this source was a revolutionary guerrilla group operating in Colombia."** (The Nicaraguans attempted to establish a cocaine processing laboratory, and imported expert technicians from the United States to operate it. They also contacted an established European drug dealer.) **"Our evidence indicates that once the necessary resources had been gathered, the Nicaraguans and their cohorts began the process of the distribution of cocaine. An**

initial shipment of cocaine was provided by the Colombians directly to Frederico Vaughn and Captain Atha, both Nicaraguan government personnel. Under the supervision of these men and under the watchful eye of Nicaraguan soldiers who guarded the cocaine and assisted in packing it for shipment, the cocaine was shipped to Europe for sale. The funds derived from these drug transactions were, according to at least one eyewitness, returned to Nicaragua by Nicaraguan diplomatic personnel. During the course of the investigation of these events, a great deal of evidence has been amassed which confirms the involvement of the Nicaraguans in cocaine trafficking."

- A September 1983 report provided further details of a Nicaraguan-supported drug operation: a drug trafficker, who had been involved with Rodolfo Palacios Talavera, former First Secretary of the Nicaraguan Embassy in Ottawa, said that Palacios was "a small cog" in a machine which involved such "big wheels" as Tomas Borge and other Sandinista *comandantes*. (Palacios had been arrested in July 1983 by Canadian police for possession of cocaine valued at US $10,000.) According to the informant, Borge allowed Colombian traffickers to use Corn Island (a former U.S. possession off the east coast of Nicaragua) as a transshipment point for drugs bound for the U.S., and that he also was arranging for Cuban assistance.

- Another source reported that as of late 1983 a vessel purchased by the Nicaraguans was in Colombia being fitted with secret compartments for concealing drugs. Drugs shipped from Cuba to Nicaragua were to be loaded on this ship at the Nicaraguan east-coast port of Rama for smuggling into the United States.

- According to information in a U.S. government affidavit filed in U.S. District Court in Florida, the United States Drug Enforcement Agency became aware through an informant that two major Colombian traffickers, Pablo Escobar and Jorge Ochoa, had reached an agreement in April 1984 to use Nicaragua in a cocaine-smuggling operation. In early June 1984, a Cessna Titan with 750 kilograms of cocaine aboard flew out of Colombia into an airfield just northwest of Managua called *Los Brasiles*. The facility was in joint use by the Nicaraguan armed forces and the Ministry of the Interior. Apparently coordination among the Nicaraguans was faulty because the aircraft was hit by antiaircraft fire as it approached its destination, and, damaged, made an emergency landing. Frederico Vaughn, who is a personal assistant to Tomas Borge, arranged for the pilot, a DEA informant, to return to the United States to obtain another aircraft, leaving his damaged plane and the cocaine at Los Brasiles. On June 24 1984, the pilot returned to Los Brasiles in a C-123 aircraft, equipped with a hidden camera, to retrieve the drugs. Both Vaughn and Escobar, escorted by Nicaraguans in uniform, personally helped the pilot load the cocaine into the C-123. (In photographs which accompany the affidavit, taken clandestinely during the loading, both Vaughn and Escobar are clearly identifiable). Vaughn was paid $1.5 million for providing the drug traffickers "secure facilities."

- In July 1984 the same pilot made another trip to Nicaragua from the United States to take supplies for a new cocaine processing complex under construction there. Additionally, large shipments of ether reached Nicaragua from Europe via Havana. In a taped conversation with the pilot in mid-July, Frederico Vaughn stated that the processing center was ready for use.

Senator Hawkins has charged that the goal of the Nicaraguan Government was **"to run drugs, primarily cocaine, from South America, through Nicaragua...with a two-fold purpose: first, to raise hard cash for the (Nicaraguan) revolution; and second, to destroy American youth and cripple American society by flooding our country with drugs."** And U.S. Customs Commissioner William von Raab has stated that **"both the Cuban and Nicaraguan Governments are in a class of nations --pirate nations- -led by individuals whose national policies foster drug trafficking, terrorism, or both."**

Cuba. Threaded through the Nicaraguan reports were references to the role of Fidel Castro's Cuba in drug trafficking. Prior to mid-1983, evidence of Cuban complicity was based largely on the testimony of confessed traffickers. According to these, Cuba provided a safehaven for key traffickers, like Robert Vesco, where they could be safe from U.S. extradition attempts, or for smugglers, where they could avoid U.S. interdiction operations. One reported refueling his aircraft in Cuba; another that senior Cuban officials, including Cuban intelligence officers, arranged for the distribution of drugs to the United States. Since 1983 the U.S. government has acquired the following corroborating information from other sources concerning Cuba's continuing role in drug smuggling:

o **Use of airspace.** Recent reports indicate that drug traffickers regularly fly through Cuban airspace, airspace which is otherwise tightly controlled. Traffickers apparently have an assigned corridor, which they can transit without challenge from Cuban air defenders.

o **Use of coastal waters.** Drug traffickers know that northbound vessels can put into a number of ports in Cuba for food, water, and fuel. Captains of these craft have told sources that once Cuban authorities learn that they are carrying drugs for the U.S., their cargo is not questioned further.

o **Transshipment.** To circumvent intensified U.S. surveillance over the Windward Passage and the Yucutan Channel, Cuba offers traffickers means to transfer Colombian drugs to other carriers for the final legs of their journey. For example, a June 1983 report stated that a Cuban official rented a Panamanian ship for $24,000 per month to move drugs from Colombia to a small island off Cuba's southern coast. The scheme involved flying the cargo across Cuba to a second island off the north coast, whence it would go by boat to Florida.

o **Government Approval.** Given the tight controls exerted by Castro's security apparatus over all aspects of foreign travel and communications, the foregoing arrangements would be quite impossible without the knowledge and approbation of the highest officials of the Cuban government, including Fidel Castro himself. To cite one case, in November 1982, based on evidence of conspiracy to smuggle drugs, a U.S. District Court indicted four Cuban officials: Rene Rodriguez Cruz, President of Cuba's Institute of Friendship with the Peoples; Fernando Ravelo Renedo, former Cuban Ambassador to Colombia; Gonzalo Bassols Suarez, an official of the Cuban Communist Party; and Vice Admiral Aldo Santamaria Cuadrado, then Vice Minister and Commander of the Cuba Navy.

Other Caribbean Producers

Mexico. In 1984 traffickers smuggled into the United States from Mexico about one-third of the heroin sold here illegally. Mexican opium poppy growers produced, net after eradication, some 21 metric tons. Thus far, they and the processers and traffickers they supply compete on the U.S. market only against Asian growers. As Colombian cannabis eradication proceeds, Mexican traffickers are expected to take over the lion's share of the U.S. marijuana market. Mexican traffickers are also our largest suppliers of clandestinely manufactured amphetimines; they also sell counterfeit mandrax tablets in the U.S., and chemicals for secobarbital and diazepam in Europe.

In 1984 Mexican authorities, with U.S. aid, seized an estimated 10,000 tons of unprocessed cannabis in the state of Chihuahua and broke up a major transportation and processing center there. The United States government has welcomed statements by President de la Madrid that he intends to direct Mexico's U.S.-supported eradication program against both opium poppies and cannabis plants. But the Department of State, noting increased production in 1984 despite these statements, reported that "there are strong indications that the Mexican program has been less effective over the past two years and that corruption is playing a major role in this decline."

Mexico provides way stations for smugglers. Clandestine airports are utilized for refueling or transloading small aircraft capable of making low altitude runs into the U.S. Small boats ply between the U.S. and island and coastal ports, while overland from Mexico, trucks, tractor-trailers, fuel tankers, and other vehicles carry the substances across the long, permeable U.S. border. Within Mexico the drug rackets are controlled by Mafia-like organizations which appear to have penetrated the police and security forces. While there is no known connection between Mexican traffickers and terrorists, the former make extensive use of violence and intimidation in pursuing their trade.

Belize and Jamaica. These two former British dependencies (in which the British remain involved in security), also serve as way stations for smugglers. This traffic, and indigenous cannabis production, present the principal counternarcotics problems.

Illicit Cannabis Production

	1985 Metric Tons	1984 Metric Tons	1983 Metric Tons
Colombia	2,500-3,000	7,500-9,000	11,200-13,500
Mexico	6,124	5,850	4,975
Jamaica	1,559-2,909	1,627-2,977	2,460
Belize	191	1,053	620
Total	**10,374-12,224**	**16,030-18,880**	**19,225-21,555**

There are, of course, other nations which should be mentioned in any comprehensive survey of the counternarcotics problem facing the United States, especially way-station countries like Guatemala, and the Cayman and Bahama Islands, positioned astride the main smuggling routes. But for the purposes of this discussion, this brief description of the prime producer-countries and Cuba covers the principal malefactors.

Summary

The nations that produce the bulk of the drugs sold illegally in the United States are Bolivia, Peru, Colombia and Mexico. Organized traffickers from Colombia and Mexico are the main motive forces behind large scale smuggling. However, the governments of all these countries support, in principle if not in deed, the counternarcotics policies of the United States. Within limits imposed by their internal security, political strength, corruption and inefficiency, all except two southern neighbors of the United States are committed to programs of reducing their own production and consumption and preventing the unauthorized export of illicit substances. Only the two Marxist garrison states, Nicaragua and Cuba, pursue a contrary policy of abetting the traffickers.

The U.S. Response

The awareness of the people of the United States that they have a "drug problem", on which I earlier commented (pp. 3ff.), has led to action by Congress, by Federal, state, and local governments, and by the private sector. There are seven courses of action open:

(1) Eradication of canabis, opium poppies, and coca bushes where such plants are grown in quantity.

(2) Seizing of harvested vegetable matter or the chemical derivatives thereof, and interdiction of traffickers enroute to the U.S.

(3) Blocking shipment of chemical reagents used in processing narcotics, especially ethyl ether and acetone.

(4) Seeking extradition of traffickers for trial in the U.S.

(5) Impounding the funds and property of traffickers.

(6) Reducing demand here in the United States by educational and clinical programs.

(7) Legalization and government control of sales.

We have initiated action on each course except (7). The first five require the close cooperation of foreign governments, and therefore adroit diplomacy. The U.S. Department of State and other U.S. government agencies operating abroad have invested major efforts on (1), (2), and (4). The National Narcotics Border Interdiction System is the most visible action taken by the Reagan Administration on (2) and (3). Much of (6) has involved treating abusers, deterring or dissuading abusers, and apprehending and prosecuting traffickers.

These efforts proceed under overall direction of the National Narcotics Enforcement Policy Board, chaired by the Attorney General of the United States. It has as members the Secretary of the Treasury, the Secretary of State, the Secretary of Defense, the Secretary of Transportation, the Director of Central Intelligence, and the Director of the Office of Management and Budget. Since the summer of 1983 the Organized Crime/Drug Enforcement Task Force (OCDETF), a Federal/state/local cooperative undertaking, has been investigating and bringing charges against drug traffickers, resulting in over 1,000 indictments against nearly 5,000 defendants. Of cases prosecuted, the conviction rate has been 90 percent. Nearly one-half of the total cases involved organizations whose primary purpose was smuggling or marketing illegal drugs. About one-third dealt with organizations connected both to drugs and to other major felonies, including traditional organized crime groups, and outlaw motorcycle gangs. Priority has been given to those organizations whose activities are international in scope, and more than 48 percent of the OCDETF's court cases relate to international trafficking.

The Attorney General, Edwin Meese III, reports that "diligent efforts have been made to create new levels of cooperation with state and local law enforcement agencies. By the end of last year (1984), almost half the Task Force investigations resulting in indictments had been conducted in cooperation with state and local agencies. From the beginning, that sort of cooperation had been viewed as absolutely essential to the success of the Task Force Program. Drug trafficking is a problem which affects every part of our nations. To combat it effectively means utilizing every available criminal justice resource..." The Attorney General also attached importance to close working relationships with foreign law enforcement agencies, and noted that some 4 percent of OCDETF investigations started by 1985 involved foreign agencies.

To quote Mr. Meese further: **"The Task Force Program is a key part of our overall efforts to combat drug trafficking and all of the evils that flow from it. Our total strategy is composed of many elements. We place heavy stress on initiatives with other countries to reduce the production and delivery of drugs. Interdiction initiatives have a major priority. In addition to their work on the Task Forces, Federal agencies continue to develop a wide range of other important drug cases. Great attention is given to drug treatment and prevention programs --especially programs to prevent drug use among our young people...The debate in the country today is over the adequacy of drug enforcement resources. I believe there has now developed throughout the nation the most intensive public support for drug enforcement that has ever existed. The law-abiding citizens want drug trafficking rings put out of business. They want an end to the crime and human misery and death caused by drugs. They want the young protected against the drug traffickers. We believe the public supports today's Federal drug enforcement programs and the greatest level of resources ever utilized against drug trafficking. We will not win the war on drugs today or tomorrow or next week. But we will eventually win it..."**

Among the Federal agencies that have significantly increased contributions to the broad attack sketched by the Attorney General is the Department of Defense. This past spring Dr. Lawrence J. Korb, Assistant Secretary of Defense for Manpower, Installations, and Logistics testified before a House subcommittee as follows:

> **The Defense Department is contributing to the anti-drug effort to the maximum extent possible under current law, and under the resource and military preparedness constraints with which we must abide. Before addressing the specific issues affecting our support for the civilian drug law enforcement community, let me put the DoD role in perspective...Under the legislation passed in December, 1981, DoD provides Federal, state, and local civilian law enforcement officials with information collected during the course of normal military**

> **operations, makes military equipment and facilities available, and provides training and expert advice. This law expressly forbids direct participation by members of the Army, Air Force, Navy, and Marine Corps in arrest and seizure activities, or in any other form of law enforcement --except, or course, where allowed under other statutory authority. And finally, the considerations of military preparedness and reimbursement must affect all our decisions. National security cannot be undermined as the Department of Defense meets its other responsibilities under the law. Under the law, the support we provide must not jeopardize military preparedness and the Secretary of Defense has issued both directives and other guidance to that effect.**

Assistant Secretary Korb then presented data from calendar year 1984 concerning service aircraft operating in support of civil law enforcement agencies (10,000 hours), ground radar surveillance of the Mexican border on behalf of the Border Patrol (958 targets detected, 292 apprehensions), USN ships with Coast Guard tactical law enforcement teams (TACLETS) embarked (135 ship-days), and airborne surveillance radar support over the coastal approaches to the United States:

> **The Navy provided 1455 hours of radar support...the USAF operates two aerostat radars located at Cudjoe Key and Patrick AFB. These radars provide effective look-down capability against low flying aircraft. Both aerostats, digitally linked to the Customs Service Miami C^3 facility and the Tyndall Region Operations Control Center (ROCC), were operational over 10,000 hours in 1984. Various electronic equipment is loaned including a secure radio to the DEA. The Air Force also maintains a variety of equipment at the National Narcotics Border Interdiction System (NNBIS) centers. In 1984 the Air Force provided extensive overnight refurbishment on a DEA C-123 transport aircraft enabling DEA to use it on a special mission...The Army, Navy, and Air Force provided 42 personnel who provide expert assistance to six National Narcotics Border Interdiction System (NNBIS) Regional Centers in addition to the NNBIS headquarters in Washington, D.C. When you include other personnel in the Pentagon dedicated to this mission on a full-time basis, their combined annual salaries are nearly two million dollars...There have been increasing calls on the Department of Defense to do more...to provide more assistance to civlian law enforcement agencies. I think the data I just cited support our contention that we have provided a great deal of assistance...We are also open to the possibility of supporting new initiatives...The bottom line is this: if the proposal for DoD support is viable, both from a legal and operational readiness standpoint, we will assist...What we ask in return is recognition of the need for Defense to balance requests for assistance with budgetary restraint, readiness implications and national security mission imperatives.**

Late in June 1985 the Secretary of Defense wrote Chairman Les Aspin of the House Armed Services Committee expressing somewhat stronger objections to extension of the DoD role in drug interdiction. Prompted by an amendment introduced by Rep. Charles E. Bennett of Florida, which would authorize members of the armed forces "to assist drug enforcement officials in drug searches, seizures or arrests outside the land area of the United States...", Secretary Weinberger went on record opposing such a law, on the grounds that "reliance on military forces to accomplish civilian tasks is detrimental to both military readiness and the democratic process." He stated that the Bennet Amendment would break down "the historic separation between the military and the civilian spheres of activity" which he said is "one of the most fundamental principles of American democracy. We strongly oppose the extension of civilian police powers to our military forces."

Inferentially, if not explicitly, Secretary Weinberger has rejected the idea that drug smuggling is a national security problem. Both he and Assistant Secretary Korb see profound differences between the routine functions and activities of the armed forces aimed at readiness to defend the country and DoD aid to the civil agencies engaged in counter-smuggling operations. Both officials appear prepared to provide continued very conditional support for the fundamental interdiction strategy of NNBIS --a picket-fence of surveillance around the U.S. borders. But neither seems receptive to any bold initiative involving DoD, nor a different strategy calling for a larger role for their Department in combatting narcotics traffickers.

A Threat to U.S. Security?

My recent testimony before Congress differs from the expressed views of Secretaries Weinberger and Korb both in my assessment of the threat and in my appraisal of the effectiveness of our strategy to meet that threat. But, of course, my background and experience has been very different from theirs, my judgements being formed not only by my 2 years of command in Latin America, but also by 40 years of military service.

My first official encounter with the modern drug culture came in Korea in 1952, when I noted approvingly that an infantry unit occupying trenches along the floor of the Chorwon Valley below the Chinese-occupied Osang Mountain had developed extraordinary proficiency in concealing its positions with camouflage nets. But when I looked into it, I discovered that the troops were harvesting and drying marijuana as garnish on those nets. Whatever security the concealment afforded was more than offset by the substantial loss of nocturnal alertness occasioned by canabis use in that outfit.

A decade later, as a long range planner in the Army General Staff, I read studies predicting that in the 1960's and 1970's, widespread use of mind-altering chemicals would be one of the factors fundamentally affecting national security, from the defense production base to front line units. Those forecasts turned out to be understated. In two tours of command in the Republic of Vietnam, and in every position I have held as a general officer since, I have had to deal with drugs as a pernicious influence on military personnel. Marijuana, heroin, and cocaine impact adversely personal professionalism, and divert the attention of unit commanders from their responsibilities for readiness to dealing with consequent indiscipline, crime, and needless injury or death among relatively small numbers of abusers. Hence, I have come to regard drug abuse as a national security problem.

But is drug smuggling a national security problem too? I have come to believe it is.

Two years ago, in April 1983, just before I was posted to Panama, President Reagan in an address to the nation outlined four basic objectives of U.S. policy in Latin America. I took these as my marching orders. He said then that it is our purpose there to support democracy, reform and human rights; that we are there to stimulate economic development; that we are there to support dialogue and negotiations; and that we are there to support security as a shield for democratization, development, and diplomacy.

I think that recent years have witnessed distinct progress toward all of those objectives. Concerning democracy, if you go back to 1979, two out of three of the people in Latin America were then living under authoritarian governments. Today, nine out of ten are living in countries with democratic governments. Since 1980 military juntas have turned back control of governments to civilians in eight countries; and since 1980, 15 countries in mainland Latin America have held free elections. Just this year national electoral campaigns have been held in Peru, Costa Rica, Honduras, El Salvador, and Guatamala. From what I have seen, there is a deep yearning among Latins for the sort of polity they observe here in the United States, and it is , in my view, very much in our interest to help them achieve just that. Democracies make better neighbors for us, and for our children, and there can be little doubt that Latins are now convinced that democracy better assures their future as well.

But now our neighbors understand as never before that drug trafficking is one of the main threats to their progress toward democracy and prosperity. In the past, U.S. efforts to block it have often poisoned our diplomacy with Latin nations, and created internal political problems for governments we support. But now most Latin governments realize the dangers posed by narcotraficantes and want as much as we to suppress them. We and the Latin democracies we support must together find better ways to counter this form of criminality.

I am convinced that the drug traffic from Latin America into the United States constitutes a threat to U.S. national security interests because:

(1) Latin Americans produce and ship most of the marijuana and cocaine imported into the U.S., and a significant part of the heroin as well. These substances attack our society from within --our productivity, our ethics, our education-- more directly and dangerously than any other form of foreign subversion.

(2) The channels through which drugs and related personnel or material are moved within Latin America and the Caribbean constitute a region-wide, well-financed, illegal, trans-national intrastructure. This intrastructure is used to move other unlawful cargoes (such as arms and munitions); dangerous persons (such as terrorists, spies, subversives or criminals); and pernicious information (such as political, economic and military intelligence). All these have been used in the past and could be used in the future to imperil U.S. national interests.

(3) The vast funds generated by these activities are economically wasteful and politically dangerous. Even in the form of "laundered" funds, they seldom underwrite permanent development, often spawn local crime and corruption, and frequently have been used to finance revolutionaries of the right or left who are determined to overthrow established governments. To the degree the U.S. has taken renewed interest in the democracies to our south, and through such mechanisms as the Caribbean Basin Initiative and the Jackson Plan committed large sums for their

economic revival and political well-being, we have a stake in their welfare and security against the threat posed by drug trafficking.

(4) Drug traffickers have reacted to pressure from lawful authorities in many countries by forming common cause with Marxist-Leninists, anarchists, and international terrorists. The money, mobility, communications, and trans-national resources of the narcotraficantes lend wholly new dimensions to threats to U.S. lives and property from terrorists or insurgents. Again, where such threats imperil democracies we support, our interests are engaged.

In considering what to do about this threat, I have applied a military approach: I have looked for the vulnerabilities of the traffickers, the places where they or the substances in which they deal can be found in greatest concentration. I am convinced that for cocaine, marijuana, and heroin, these places are the processing centers where the substances are prepared and readied for shipment to the U.S. For cocaine, the most dangerous drug of abuse, the advantages of attacking the big laboratories are particularly persuasive. Coca leaf is reduced in size and weight by a factor of 10^2 in conversion from leaf to paste or base, and then again by a factor of 10^3 in conversion to cocaine hcl. Once in the latter form, shipments of a few grams are profitable. Several smuggled kilograms can pay couriers handsomely and buy a whole aircraft. Since the "laboratory" where the final conversion occurs can often be located by technological as well as human intelligence, there is the place to strike.

A Broader Countersmuggling Role for DoD

In June 1985 before the Subcommittee on Defense of the Senate Committee on Appropriations, I stated that marijuana, cocaine, and heroin illegally imported from Latin America constitute "...a threat to the nation of such a magnitude that it requires us to bring to bear all our societal defenses, both our criminal justice apparatus and our national security forces." However, I am sceptical about investing further resources in the picket fence of NNBIS. Drug enforcers tell me that their successes have come mainly from advance tip-off of an impending smuggling, not from alerts from sentries posted along our perimeter on the lookout for traffickers. Early warning, they believe, enables planning and executing legally sustainable arrests, whereas quick reaction to chance encounters often leads to the quarry's escaping, either during an impromptu arrest attempt, or subsequently in court on evidentiary grounds. I have advanced five premises or principles which I believe should guide the policy of our government in countering the smuggling of narcotics:

- Striking against drug smuggling at its sources is strategically more sound, more economical, and more helpful to friendly democratic governments facing parasitical narcotraficantes than relying on the NNBIS strategy of picketing our borders.
- With the exceptions of Cuba and Nicaragua, Latin American governments share the U.S. interest in stopping drug trafficking. Where drug traffickers prosper, the proponents of political violence profit, and arms flows and subversion are facilitated. Conversely, aiding Latin nations to rid themselves of the plague of narcotraficantes would be a welcome form of U.S. aid,

particularly were that aid proffered to include badly needed help with intelligence and communications.

- Intelligence exchanges and security assistance, properly conditioned on performance against narcotics production, processing, and transportation, and the individuals or organizations which underwrite and manage such activities, should be offered to democratic governments willing to commit their own military resources against their narcotraficantes. If thereby their internal security is strengthened, so much the better.

- The most important DoD contribution to such assistance would be intelligence. From the viewpoint of the military intelligence collector, the problem sets involved with guerrillas are virtually identical to those with narcotraficantes. Broad area surveillance, pin-point localization, and real-time reporting are central to effective counteraction by a cooperating government against either threat.

- Neither the Department of Defense nor any of its subordinate commands should be tasked or resourced to do any other agency's job. The objective is to put DoD in support of, not in charge of, the ongoing U.S. counter-narcotics campaign.

Were U.S. commanders of deployed military forces tasked appropriately, I am convinced that they could provide significantly greater contributions to NNBIS and to cooperating foreign governments without detracting from force readiness, as Secretary Korb has feared. Indeed, I believe that the JCS could devise a plan that would substantially interfere with the drug traffickers, and yet cost little or nothing in terms of incremental defense outlays. Such a plan might capitalize on training which has routinely centered on hypothetical or posed hostile operations. Pitting our forces for training against wily, elusive smugglers would furnish our forces more realistic experience and provide greater readiness.

While much of what I have proposed could be sustained within the existing force structure, there are three add-ons to the Defense program that I recommend:

(1) A Caribbean Basin Radar Network, designed to enhance early warning of aircraft approaching the United States from the south. As matters stand, we have no comprehensive system for sensing incoming or outgoing piloted airplanes, or cruise missles. Technology is in hand for closing this gap in our national defenses. The airborne radars now in use, supplemented by portable land-based and ship-borne radars, all tied into a communications network, could provide both our air defenders and our law enforcement agencies with a general appreciation of the nature and extent of unregistered flights on which better to plan seizure on arrival.

(2) Command, control, communications and intelligence (C^3I) centers capable of collating from all sources, including the radar network, information on the activities of drug traffickers, and of disseminating derived intelligence quickly to foreign counternarcotic authorities, to U.S. forces engaged in surveillance, and to U.S. law enforcement agencies. These

C^3I centers could economically be built onto existing DoD centers, utilizing commercial SATCOM channels, suitably encrypted

(3) Research and development directed at gaining and maintaining a decisive advantage for law enforcers, U.S. or foreign, in detecting and foiling drug traffickers. The robust R&D community of DoD is in the best position to undertake such an effort. In fact, merely reviving certain R&D eliminated at the end of the war in Southeast Asia, would yield benefits for our anti-narcotics campaign, as well as raising our readiness for low intensity conflict.

As for other governmental expenditures, I have recommended modest increases in security assistance for cooperating Latin governments, on the order of $10 to $30 million per annum, conditioned on their using this for military operations against narcotraficantes. I am convinced that such sums would be at least ten times more effectively spent than further investments in large maritime dragnets, or buying more patrol aircraft for NNBIS.

In sum, the fight against drugs of abuse should be taken to their sources. In addition, other means at our disposal should be used by our own military forces and those of our allies. The threat is so large and so resourceful, that to counter it military operations and security assistance are mandatory recourses.

BIBLIOGRAPHY

Diehl, Jackson, "Surge in Cocaine Traffic Sparks Venezuelan Antidrug Campaign", Washington Post, November 22, 1984, p.F1.

Department of State, Bureau of International Narcotics Matters, **INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT**, Volume I (U), February 1, 1985.

Gorman, Paul F., Gen., USA, Statement before the Government Information, Justice and Agriculture Subcommittee of the Committee on Government Operations, House of Representatives, First Session, 99th Congress, re Drug Interdiction Operations, Miami, Florida, March 15 1985.

Ibid., Statement before the Subcommittee on Defense of the Committee on Appropriations, United States Senate, First Session, 99th Congress, re DoD Role in Interdicting Drug Imports, June 4 1985.

Los Angeles Times, "Cocaine Capital of New England Retains Simple Aura," June 2 1985, p. 20.

Korb, Dr. Lawrence J., ASD, MI&L,Statement before the Subcommittee on Government Information, Justice & Agriculture of the Committtee on Government Operations, House of Representatives, First Session, 99th Congress, re DoD Contributions to Drug Interdiction, March 16 1985.

President's Commission on Organized Crime, **THE CASH CONNECTION: Organized Crime, Financial Institutions, and Money Laundering**, October 1984.

Ibid., transcript of Public Hearing on Cocaine Trafficking, pages 138-140, Agent Phelps on Nicaraguan Involvement, undated.

Rasberry, William, Washington Post, "And If Drugs Were Legal?", April 3, 1985.

Research Triangle Institute, "The Costs of Drug Abuse", undated extract.

Ibid., "Economic Costs to Society of Alcohol and Drug Abuse and Mental Illness: 1980", June 1984.

Shannon, John W., ASA, I&L, Statement before the Subcommittee on Government Information, Justice, and Agriculture of the Committee on Government Operations, House of Representatives, First Session, 99th Congress, re Army National Border Interdiction System Accomplishments, March 16, 1985.

von Raab, William, Commissioner of Customs, Testimony before the Senate Subcommittee on Children, Family, Drugs, and Alchoholism, First Session, 99th Congress, April 19, 1985.

Washington Crime News Services, NARCOTICS CONTROL DIGEST, Vol. 15, No. 8, 17 April 1985, and No. 9, May 1, 1985.

Wilson, George C., Washington Post, "New Police Powers for Military Weighed", 24 June 1985.

DATA AND ANALYSIS REQUIREMENTS FOR POLICY TOWARD DRUG ENFORCEMENT AND ORGANIZED CRIME

By Mark Kleiman

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Mark Kleiman is a Research Fellow in the Program in Criminal Justice Policy and Management at the John F. Kennedy School of Government of Harvard University, Senior Lecturer in Political Science at the University of Rochester, and President of BOTEC Analysis Corporation.

EXECUTIVE SUMMARY

Organized crime control and drug enforcement need to be considered together insofar as drug trafficking contributes to the organized crime problem or organized crime contributes to the drug problem. In making policy it would be useful to know about (1) the role of drug trafficking in supporting organized crime groups; (2) the role of organized crime groups in supplying drugs; and (3) the effects on each problem of changing enforcement practices in the other.

Drug trafficking is almost certainly the largest source of illegally-earned income in the United States [Carlson, 1983.]

Both "traditional" organized crime groups (Mafia families) and "emerging" organized crime groups participate in some aspects of the illicit drug trafficking industry. In addition, some drug trafficking organizations have some of the characteristics of organized crime groups, such as the capacity and reputation for the use of violence and corruption to frustrate enforcement.

Organized crime can participate in drug markets either "productively," using its lawbreaking skills to contribute to the supply of illicit drugs, or "parasitically," using violence and the threat of violence to extort drug merchants or organize cartels. Only the productive activity of organized crime contributes to the drug supply problem, which is the main target of drug enforcement. Parasitic organized crime activity, in illicit markets as in legitimate markets, tends to raise prices and reduce consumption.

Controlling organized crime and controlling drug abuse (and drug-abuse-related crime) are two distinct objectives. Some agencies of government -- the Drug Enforcement Administration (DEA) and the National Institute on Drug Abuse (NIDA), for example -- have primary responsibility for drug abuse control. Others, like the Organized Crime Strike Forces, are concerned primarily with organized crime control. The two sets of agencies may or may not promote each other's objectives.

Drug enforcement actions may affect the drug markets in several ways. They may: (1) help or hurt the efforts of organized crime to participate in and profit from drug dealing; (2) encourage or retard the development of organized-crime-like characteristics among drug trafficking groups; and (3) lead to more or fewer convictions of organized criminals. Unless it is liberately focused on organized crime groups, high-level drug forcement may tend to foster organized crime by keeping prices gh and driving out less well-organized competitors (see p. ii).

Organized crime enforcement actions may make the task of rug enforcement harder or easier, depending on whether the roles f those groups in the drug markets are primarily parasitic or rimarily productive. Aside from heroin importation into New ork, traditional organized crime is largely a parasite on the rug markets; thus, as long as the organized crime effort oncentrates on the Mafia, it has little to contribute to drug supply reduction.

Data about drug trafficking and drug enforcement, and about the relationships between the drug trade and organized crime, can serve three purposes: describing the current dimensions of the problem, reasoning about how changes in enforcement activity might make matters better or worse, and measuring the actual effects of such changes after they are made.

From the perspective of organized crime policy, essential facts about the drug markets are prices and quantities, and, most important, the relationship between changes in retail price and changes in the quantity purchased: the price-elasticity of demand. Driving up the price of an inelastically-demanded drug will increase the total revenues of traffickers of that drug, and thus tend to promote organized crime.

Data about the drug markets and drug enforcement come from three sources: (1) survey research; (2) observations of the consequences of drug abuse (deaths, injuries, and demand for treatment); and (3) enforcement statistics and reports.

Current large survey efforts, among households and high-school seniors, do not gather much price and quantity data. We need a separate national survey with a sample designed to overrepresent heavy drug-users, that asks very detailed questions about price, quantity, and conditions of drug purchase. In addition, local and regional surveys should be conducted to evaluate the effect of enforcement initiatives on market conditions and drug consumption.

Two techniques not now in use -- "panel" surveys of drug users and surveys of convicted dealers -- should be undertaken, if the difficult operational and ethical issues can be resolved.

Neither abuse-consequence data now gathered (medical-xaminer and emergency-room reports through the Drug Abuse arning Network (DAWN), drug abuse treatment data through the emnants of the Client-Oriented Data Acquisition Process (CODAP), pinions of treatment professionals through the Community Epidemiology Work Group (CEWG)) nor alternative ways of reaching the same facts are very useful in making organized crime/drug enforcement policy choices. These programs serve other purposes and should not be disturbed, except for adding bioassay capability to some DAWN sites. Pilot programs to test jail admittees for heroin use are worth pursuing.

More could be done with enforcement agency data, which could tell us about the enforcement effort itself (agency activities, targets, measured results) and on its effects (prices at different levels of the drug trade). The new management of the Drug Enforcement Administration has put less effort into estimating prices and quantities in the drug markets. That change should be reversed, and DEA should again publish price-chain estimates.

Enforcement agencies can also make and analyze retail-level drug purchases, unrelated to specific cases, to measure the state of the drug markets. Such "monitor" programs should be increased in frequency, systematized, and applied to marijuana and cocaine as well as heroin.

Recent revisions in the methods used by the National Narcotics Intelligence Consumers Committee (NNICC) in preparing the annual Narcotics Intelligence Estimate (NIE) appear to have somewhat reduced that document's inconsistencies with observable fact. However, the NNICC still seems to practice analysis by negotiation rather than basing its estimates on evidence. The NIE would be more useful if its assumptions, data, and computations were explicit. There might be value in allowing a group of experts outside the government access to NNICC documents and sources, from which they could develop an independent set of estimates.

QUESTIONS TO BE ANSWERED:

Drug trafficking and organized crime are linked problems. Policy making and evaluation for each is complicated by the presence of the other. My objective is to outline a set of data collection and analysis activities that would answer questions under four headings:

1. What effects do organized crime have on drug trafficking d enforcement?

2. What effects do drug trafficking and enforcement have on rganized crime?

3. How should federal agencies engaged in organized crime nforcement adjust their policies to contribute to the objectives f drug policy?

4. How should federal agencies engaged in drug enforcement adjust their policies to contribute to the objective of organized crime control?

Data collection and analysis are never free; in the drug area, they are likely to be quite expensive. It is therefore important to identify in advance what is relatively certain on the basis of information and analysis now in hand; it doesn't take a spectroscopic analysis to discover that the sky is blue. The following section will therefore attempt to describe what we now know and to identify the key analytic points.

INTRODUCTION: DRUG ENFORCEMENT AND ORGANIZED CRIME CONTROL

How Two Objectives and Two Sets of Institutions Intersect

The objective of drug enforcement is to keep drugs away from consumers. The objective of organized crime enforcement is to control the wealth and power of major criminal organizations and to frustrate their goal of being able to defy the law.

These objectives interact where the illicit drug business is a major source of power or revenue to organized crime groups (or a major source of their vulnerability to enforcement), and where the capabilities of organized crime groups make drugs more available than they would otherwise be: in other words, where the drug trade contributes to the organized crime problem or where organized crime contributes to the drug problem.

Defining Organized Crime

The term organized crime can be used in one of two ways. It may be merely an ethnically neutral euphemism for "the Mafia" or "La Cosa Nostra" (LCN); or it may describe a class of criminal rganizations whose characteristics make them particularly worthy f law enforcement attention. Size, wealth, political power, articipation in a variety of criminal activities, and continuity ver time have all been suggested as such characteristics. [See Maltz, 1984; Kleiman, 1984, pp. 74-75; Kleiman, 1985, and pp. 161-173.]

One way to bridge the gap between the two definitional approaches is to refer to the Mafia as "traditional" organized crime, while acknowledging the existence of other, "emerging," organized crime groups.

Defining organized crime in terms of its characteristics, rather than ostensively, complicates the analysis. Not only does this approach treat the set of "organized crime" groups as variable rather than fixed; it also implies a many-valued rather than two-valued classification. Criminal groups, rather than simply being organized crime or non-organized crime (i.e., Mafia families or other), will fall along a spectrum of being more or less "organized-crime-like." This suggests the possibility that drug enforcement activity can increase or decrease the number of drug-dealing organizations with many organized crime characteristics. It also suggests that it can make existing organized-crime-like drug dealers more or less organized-crime-like and give such groups a greater or lesser share of the drug market.

This paper will attempt to distinguish between traditional and emerging organized crime groups, but will think of organized crime as primarily a set of organizational characteristics rather than a predefined set of organizations. The relevant characteristics are organizational continuity and organizational investment in the capability and reputation for violent or corrupt interference with law enforcement activity.

Organized Crime as a Drug Supply Problem

"Traditional" organized crime -- La Cosa Nostra -- does not now contribute substantially to the drug problem, with the exception of the major roles of two of the five New York LCN "families" in heroin importation. This is not to say that LCN members and associates do not participate in drug dealing on many levels, but only that they make no distinctive contribution to the supply of illicit drugs. Indeed, as Thomas Schelling has pointed out, the activity of organized crime in cartel formation and extortion from illicit entrepreneurs may on balance reduce he supply and increase the price of illicit goods, as is true in icit markets. [Schelling, 1967; Kleiman, 1985, Ch. 7.]

As a consequence, organized crime enforcement institutions -- the Strike Forces and the investigators who work with them -- have relatively little to contribute to solving the problem of illicit drug supply, as long as they continue their concentration on "traditional" organized crime groups. This concentration has been so successful, both in terms of successful cases and in terms of creating and maintaining productive, high-morale enforcement and prosecution institutions, that it seems both unlikely (as a matter of prediction) to be changed and unwise (as a matter of policy analysis) to consider changing.

It may be the case that some "emerging" organized crime groups make distinctive contributions to various parts of drug supply, so that their disruption would contribute to drug supply control (over and above the general effect of enforcement in raising prices by raising the costs and risks of drug trafficking). Outlaw motorcycle gangs -- the Hell's Angels in the West, the Outlaws in the Mid-Atlantic region -- may be "least-cost suppliers" in the distribution of cocaine, amphetamines, and phencyclidine (PCP). Similarly, some ethnic-based organizations among Asian-Americans may be significant contributors to the heroin supply, as the Herrera organization certainly was at least until the recent arrests. By contrast, neither the importation nor the distribution of marijuana appears to offer the economies of organization that would make breaking up particular trafficking groups a major marijuana enforcement objective. The marijuana trade may be at its most efficient as a decentralized set of independent buyers and sellers.

To develop a set of institutions to appropriately address the role of emerging organized crime groups in the drug markets will require devising organizational incentives and career patterns that support extremely long-term investigations and investments in intelligence (broadly defined), while maintaining a supply-control orientation among agents and prosecutors. This will not be an easy task. There may be lessons to be learned from the Federal Bureau of Narcotics in its approach to LCN heroin dealing. [Cf. Kleiman, 1985, Ch. 8 for some relevant considerations.]

The Drug Markets as an Organized Crime Problem

The illicit drug traffic contributes to the organized crime roblem because of the enormous amounts of money at stake. These otential revenues will both attract (and help to sustain) xisting organized crime groups and call into existence new roups with organized crime characteristics.

LCN families, other ethnically-based organizations long in existence, and outlaw motorcycle gangs may engage in drug dealing as a way to support themselves financially and to take advantage of their organizational abilities in illicit transactions. The opportunities in the drug trade may also allow the development of organizations whose origin is in drug dealing, and which may remain specialized in drug dealing, while taking on organized crime characteristics: in particular, organizational continuity and organizational investments in the abilities to use violence and corruption to resist enforcement efforts while remaining prominent in illicit markets.

Drug trafficking is almost certainly the largest source of illegally-earned income in the United States, far outstripping the market for illegal gambling or prostitution. [Carlson, 1983;

Simon and Witte, 1982.] Estimates of total revenues from drug sales vary widely [Carlson, 1983; NNICC, 1984; Kleiman, 1985; Reuter and Kleiman, forthcoming;] and are highly unreliable [Reuter, 1984; Singer, 1971.] It seems unlikely that total annual revenues are much less than $25-30 billion.

Virtually all of this represents rewards for lawbreaking; the payments for licit goods and services (rental or purchase of vehicles and buildings; lawyers' fees) are negligible. On the other hand, relatively little represents revenue to large criminal organizations, because so much of the final retail price of illegal drugs consists of the markups of retail dealers and low-level wholesalers. For heroin and cocaine less than one-tenth of the final retail price is collected by the dealer who sells kilogram units. Marijuana, by contrast, with much less vigorous enforcement at lower levels, undergoes only about a four-to-one price markup between first domestic distribution and final retail sale.

Therefore, while all three markets have total values on the order of $10 billion per year, more than $2 billion of the marijuana market represents the revenues of high-level organizations, while the heroin and cocaine markets at that level represent about $1 billion each. On the other hand, the tighter distribution channels for heroin and cocaine make it possible for large and highly disciplined organizations to exist at the wholesale-retail level, so that organizations with many of the characteristics of organized crime may exist at lower levels of those trades (e.g., the Barnes organization in the Harlem heroin market).

Making Strategy

Drug enforcement actions change the drug markets in ways that may: (1) help or hurt the efforts of existing organized crime enterprises, whether traditional or emerging, to participate in and profit from them; (2) encourage or retard the development of organized crime characteristics in existing or new enterprises within the drug markets; (3) be more or less helpful in securing convictions against members of already-identified organized crime groups and the identification of new groups meeting those criteria.

The more effectively drug enforcement is directed toward organized crime control, the less hospitable organized crime groups will find the drug markets. On the other hand, an increase in the overall level of drug enforcement not aimed specifically at organized crime groups may tend to frustrate organized crime control by helping existing organized crime groups profit from the drug trade and by encouraging existing drug enterprises to take on more organized crime characteristics.

The ability of organized crime groups to profit from the drug trade -- and the tendency of the drug trade to spawn new organized crime groups -- depends both on the amount of money to be made in that trade and on whether the environment rewards or punishes tight control and a reputation for violence. Under some conditions, tightened enforcement can both boost the total money available to be made and confer competitive advantage on more violent groups at the expense of less violent ones.

Tighter enforcement can increase the money to be made in any black market, if it succeeds in raising the price of the commodity involved and if consumption decreases less, in percentage terms, than prices rise. (A 50 percent price increase that causes only a 20 percent decrease in volume will create a new market with total revenues $1.5 \times 0.8 = 1.2$ times as large as the revenues in the old market, and thus increase the money to be made by 0.2 or 20 percent.) Thus the sensitivity of consumer emand to retail price -- what economists call the rice-elasticity of demand -- becomes an essential number to now.

If the price-elasticity of demand is (in absolute value) greater than one -- if a given percentage increase in price will cause a larger percentage decrease in volume -- then price increases will decrease total revenues. (Such goods are said to be "relatively elastically demanded.") On the other hand, if the price-elasticity of demand is (in absolute value) less than one -- if a given percentage change in price will cause a smaller percentage change in volume, as in the example above -- then price increases will increase total revenues. (Such goods are said to be "relatively inelastically demanded.")

In markets where demand is relatively elastic -- where consumers will respond to price increases by cutting back consumption sharply -- increased enforcement will reduce the money at stake and thus tend to make the markets less lucrative for organized crime. Where demand is inelastic, increasing enforcement will increase the money at stake and thus make the markets more able to support organized crime. Much of the empirical work recommended below centers on measuring the price-elasticity of demand for various drugs.

Unfortunately, it appears that the demand for marijuana and cocaine is relatively inelastic. [Reuter and Kleiman, forthcoming. (The argument with respect to marijuana is on much firmer ground than the argument with respect to cocaine.)] In any case, tightened general drug enforcement -- as opposed to drug enforcement targeted at organized crime -- will tend to give organized crime groups and organized crime-like groups relative competitive advantage, because their capacity for violence and corruption helps protect them against ordinary enforcement actions. [This is argued at length in Kleiman, 1985, Chaps. 6-7, and Kleiman, 1984.] This is the central tension in organized crime/drug enforcement policy: good drug enforcement may be bad organized crime control.

OBSERVATIONS TO BE MADE

The observations to be made fall into three broad classes: retail purchasing and consumption, lower-level dealing, and enforcement activity. (Of course, observations on high-level dealing are also of great importance, but they are almost impossible to distinguish from enforcement intelligence. Data collection here means talking to agents, enforcement-agency analysts, and prosecutors, and the information to be collected is rarely in quantitative form.)

THREE OBJECTIVES OF DATA COLLECTION AND ANALYSIS

Data collection and analysis about drug markets can serve three distinct functions:

--Descriptive: measuring the current dimensions of the problem and identifying trends. Sample questions: How much cocaine was sold to end users last year? What prices do they pay? How were those revenues distributed among individuals and groups in the illicit cocaine industry? What were the relationships between identified organized crime groups and cocaine trafficking? How have the volumes and prices in the cocaine market changed over time? What organized crime groups are active in the cocaine market? What role does it play in their other activities? What roles do they play -- productive or parasitic -- in the market?

--Theoretical: generating and testing hypotheses about relationships among variables, and in particular about the likely effects of changes in enforcement. Sample questions: Are there "barriers to entry" at some levels of the cocaine trade that allow traffickers to collect "pure" profits ("economic rents")? How would the average size and longevity of cocaine-trafficking organizations change if enforcement were substantially tightened?

--Evaluative: measuring the actual effects of enforcement initiatives. Sample question: How did the

South Florida Task Force change prices and volumes in the cocaine market?

THREE SOURCES OF DATA

Illicit activities are by their nature hard to observe and measure, because participants attempt to conceal them from authorities. Excise tax data, which provide the most convenient measures of alcohol and tobacco consumption, are unavailable for illicit drug markets. The same is true of the reports routinely prepared by licit enterprises -- reports to state and federal tax collectors, to trade associations and government statistical collectors, to trade associations and government statistical agencies, and to stockholders -- from which estimates of licit markets are derived.

The remaining potential sources of information about illicit drug markets are:

(1) Surveys of drug users and potential drug users;

(2) Observations of the consequences of drug abuse -- health effects, intoxicated behavior, and demand for treatment -- and the opinions of professionals who deal with those consequences; and

(3) Enforcement data and the opinions of agents and prosecutors.

Note that while surveys and observations of consequences tell us almost exclusively about the behavior of drug consumers and drug dealers, enforcement data and the opinions of enforcement professionals can also tell us about the other half of the equation: the governmental response.

Several current programs now attempt to tap these three sources of information. None is without major flaws from the perspective of organized crime policy. A major problem common to many is that they are more concerned with numbers of users and frequency of use consumed than with quantities consumed and flows of revenues.

SURVEY RESEARCH

Survey research is potentially the most powerful tool available for studying the markets for illicit drugs. Unlike data from enforcement activity or abuse consequences, survey research can attempt to measure prices and quantities directly rather than through complicated chains of inference. Performing surveys about consumption activities -- market research --

supports a rather prosperous industry, including both for-profit enterprises and prestigious universities and nonprofit research centers. These institutions have developed a repertoire of established techniques. The fact that consumer-goods firms continue to use it heavily testifies to the ability of market research to measure and predict consumer behavior.

The National Institute on Drug Abuse funds two series of survey research projects on illicit drug consumption. The Social Research Group of George Washington University does a survey every two years of more than 5,000 persons 12 years or older living in households [Miller et al. 1983]. This series is referred to among students of drug abuse as "the household survey."

Every year, the Institute of Social Research of the University of Michigan questions about 17,000 seniors in high school [Johnston et al., 1984]. The Michigan reports are referred to as "the high-school senior survey." These two surveys are believed to cost NIDA something less than one-half a million dollars for each two-year cycle.

The concept of survey research is simple. Draw a sample so designed that every member of the population under study has an equal probability of being chosen. (This is what statisticians mean by the term "random sample." A variant on simple randomization is to divide the population under study into subgroups, called "strata," and to draw the sample so that each stratum is represented in proportion to its representation in the population, and each member of a given stratum has the same chance of being drawn as any other member. This procedure, called "stratified random sampling," is the most commonly used.) Having drawn the sample, ask questions and record the answers. Then use the percentage answers from the sample as estimates of the behavior of the population from which the sample was drawn: that is, make population projections based on sample results.

Surveys can be inaccurate for three reasons: random error, sample bias, and response bias.

Random error (or "sampling error") occurs because the law of averages only works on average. If 30 percent of the population uses Crest Toothpaste, then in a sample of 100 persons drawn at random about 30 will say they use Crest. But the operative word is "about:" one time it will be 28, another 33. The larger the sample, the smaller the random sampling error, in accord with well-known statistical formulas. This does not depend on the size of the population to be measured: a sample of 1,000 is subject to the same sampling error in estimating a population of 100,000 as in estimating a population of 10 million. The rule of thumb is that the sampling error is inversely proportional to the square root of the sample size: a sample four times as big gives estimates one-half asuncertain. For many purposes -- predicting the outcome of a Presidential election, for example -- a sample size of a few hundred is ample.

The smaller the percentage of a population that has some trait, the larger the sample needed to measure that trait accurately, because a sampling error of 2 percent looms larger if the underlying figure is 5 percent than if it is 50 percent. Thus, attempts to measure rare phenomena -- heroin use, for example -- take bigger samples than attempts to measure common phenomena such as alcohol use. The other factor that drives up needed sample sizes is the desire to study how subgroups of a population differ. In a study of the effect of income on cocaine use, the relevant sample size is the number of respondents within each income class. To study whether recent increases in marijuana enforcement by the Boston DEA office succeeded in reducing marijuana consumption, one would need a sample including at least a few hundred marijuana consumers from New England, and a similar sample from another area to serve as a control.

Other than the expensive expedient of using very large sample sizes -- such as the 50,000 households interviewed each month by the Bureau of Labor Statistics -- the only way to reduce sampling-error problems in estimating rare traits is to deviate from stratified random sampling. Areas under special study or subpopulations among which the trait in question is less rare can be deliberately overrepresented. For example, if cocaine use is concentrated among upper-income urban males in the 20-45 age bracket, a study of cocaine use might deliberately seek out a sample including more such people; this is called oversampling. The results of a survey using oversampling need to be adjusted to project them back on the population. Those adjustments introduce great complexity into the statistical analysis of survey data. Subtle errors can easily creep in. In consequence, survey researchers try to avoid using oversamples.

Random error, just because it is random, does not tend to bias results. The luck of the draw produces overestimates and underestimates impartially. It does, however, introduce uncertainty. This is more of a problem when trying to measure trends (where small changes from one survey to the next matter greatly) than in measuring absolute levels. By contrast, both sample bias and response bias can createsystematic divergences between survey results and actual phenomena.

Sample bias comes from a failure to draw a representative sample. If the sampling technique makes persons with a given trait under study more or less likely than average to be selected, the sample results will consistently overestimate or underestimate the trait in question. For example, the household survey omits persons with no fixed address and those living in dormitories, barracks, and prisons. If very heavy drug users are more likely than the general population to be drifting, away at school, in the service, or in prison, then the household survey will underestimate the number of very heavy drug users. Similarly, the high-school senior survey may underrepresent drug abuse among persons in that age range for two reasons. By choosing to study high-school seniors, it omits dropouts, who may be more likely than average to be heavy drug users. In addition, the actual sampling technique may tend to underrepresent frequent absentees, and frequent absenteeism seems to be associated with heavy drug use.

If the only statistics of interest are population proportions (e.g., the proportion of the voters who think the President is doing a good job), sample bias is a controllable problem. When frequency or quantity is at issue (e.g., how frequently the average high-school senior smokes marijuana, how much cocaine was consumed last year, the total amount paid for heroin) sample bias can be a major worry. A small proportion of any population can easily account for a very large fraction of any activity, from baseball games attended to books purchased. In the case of alcohol, for example, 5 percent of the population accounts for 50 percent of the consumption [Moore and Gerstein 1981, p.29.] By one estimate, 10 percent of the marijuana-using population smokes two-thirds of the marijuana. [Kleiman 1985, P. 35.] Cocaine consumption may be even more skewed, with the additional problem that the total number of cocaine users is itself much smaller than the totals for marijuana and alcohol; two-thirds or more of the cocaine consumption may be accounted for by one-half a million users.

Sampling procedures to guard against underrepresenting such very small populations are hard to devise, particularly when the behavior under study tends to make them furtive or to reduce their participation in various normal activities. Oversampling can help; so can what are called "snowball" techniques, where respondents who fit some profile are asked for the names of other respondents. The illicit nature of drug abuse can make "snowball" sampling very difficult, however.

Response bias comes from the systematic failure of respondents to answer accurately. Any survey will gather some inaccurate responses, due to misunderstanding the questions, lapses of memory, or deliberate deception by respondents resulting from fear of breach of confidentiality, embarrassment, or a simple desire to tell the interviewer what the respondent thinks he or she wants to be told. As long as those errors cancel out, they pose no problem. The problem comes if the inaccuracies are titled to one side or the other. A survey that asks questions about activities that are both illegal and socially disapproved runs a greater-than-normal risk of encountering response bias.

A clue to how serious response bias can be, even with legal behavior, comes from surveys where people are asked how much alcohol they drink. Only two-thirds of the alcohol on which excise tax is paid (which may be an undercount of alcohol sold if distillers cheat the Treasury) is accounted for by survey responses; the survey data thus underestimate consumption by at least 50 percent. [Room, 1971.] It has been suggested [Moore and Gerstein 1981, p. 28 n.] that psychological "denial" by a small population of extremely heavy drinkers may account for most of the difference. Here again, as with sample bias, problems with a very small portion of the sample can cause the results to be seriously wrong. On the other hand, a compilation of studies in which survey responses to questions about illegal drug use were compared with urine-test results showed no tendency to underreport. [Marquis et al, 1981, p.5.]

A special kind of response-bias problem comes when survey data are used to estimate trends. If the level of social disapproval as perceived by recipients changes, then response bias may change too. For example, increasingly negative attitudes about marijuana use might lead adolescent respondents to the high-school seniors survey to be less likely to tell adult interviewers that they smoked marijuana every day, even if their actual behavior did not change. The result would be an apparent, but spurious, decline in heavy marijuana use among adolescents. (This is not to say that changing attitudes might not also change behavior, only that the survey evidence is subject to error from this source).

There are no easy answers to the problem of response bias. Sometimes, as in the studies cited by K.H. Marquis, it is possible to collect independent data as a check on a sample of responses, and then adjust the sample results for the measured bias. Another strategy is to vary the circumstances of response, for example, by using "secret ballot" answer sheets instead of face-to-fact questioning or by changing the characteristics of the interviewers. Just as pollsters long ago discovered that black respondents answered many questions differently when the interviewers were black, it may be the case that some adolescents would respond differently to questions about drug use put by another adolescent -- particularly one dressed and groomed in ways consistent with drug use -- than to the same questions put by an adult.

Changes and Supplements to Current Surveys

Both the household survey and the high-school seniors survey, conducted by experienced researchers at institutions with reputations for producing high-quality survey research, are well-designed for their intended purposes: primarily the measurement of the number of drug users, secondarily the measurement of frequency of drug use. But from the perspective of making drug enforcement policy, and particularly policy to control organized crime, they do not gather the right data, or gather it from the right people, or gather it frequently enough. The most important things surveys can tell us are the quantity of each drug purchased and consumed; the pricesat which those purchases are made; the identities and relationships of buyers and sellers; the effects of enforcement on market conditions; and the effects of market conditions on consumption. In order to learn these things, surveys would have to:

1. **Find More of the Heavy Drug-Users.** So much of total drug consumption is concentrated among a relatively few very heavy users that no practical increase in sample size for a stratified random sample among the general population will yield an adequate sample. For example, the 5,000-person household survey could expect to get by chance about a dozen of the one-half-million heaviest cocaine users. There are two ways to get a meaningful sample of heavy users: either use oversampling in drawing respondents for the household and high-school senior

surveys, or run separate studies of heavy use. The "Young Men and Drugs" studies [Clayton and Voss, 1981; O'Donnell et al, 1976] show both the feasibility of finding samples rich in serious drug abusers and the value of the results that finding such samples can yield.

2. **Ask about Prices and Quantities Purchased.** We would like to know when the user's last purchase of a given drug took place; what quantity was involved, plus whatever the purchaser knows or was told about purity/potency/quality; and how much money changed hands; this information is essential to making any serious estimate of the dollar volume of the market.

3. **Ask about the Conditions of the Transaction.** Where did the purchase take place? (The purchaser's residence, the seller's, a school building, an office building, an apartment corridor, a park, a street corner?) Were there other people present? Had the transaction been prenegotiated? Was the price take-it-or-leave-it, or was there negotiation? Was the purchaser's previous transaction with the same seller or a different seller? Is the seller a relative, a close friend, and acquaintance, or a stranger? These questions can help answer

questions about the possible effectiveness of retail-level enforcement as a way to cut down on the volume of drugs consumed.

4. **Ask about Price Increases, Shortages, Sharing, and Consumer Inventories.** Was the price of the most recent transaction higher or lower than the respondent's previous transaction? Than the respondent expected? If the price of the drug were to increase by 25 percent, what would the respondent do? (Use about the same amount, use less, quit altogether, switch to another drug?) Has the respondent ever been unable to find a supply of the drug in question at any price? Does the respondent now have a supply of the drug? If so, how long would it last at his normal consumption rate? How frequently has the respondent used drugs purchased by another? Given drugs to another? These questions will help determine the effect of price increases and temporary shortages on consumption behavior. Unfortunately, experience from market research on legitimate products suggests that the answers to the what-if questions are likely to be unreliable.

5. **Give Information about Local Markets.** Federal and local enforcement efforts vary widely across the country in their intensity and success, but there are almost no studies of what

the effects are on retail purchases and consumption. Nationwide samples need to be supplemented with local ones.

6. **Provide a Steady Stream of Data in Addition to Annual or Once-Every-Two-Years Snapshots.** This is particularly valuable in combination with local data as a way of measuring the difference enforcement makes (or fails to make). Is the availability of drugs fairly constant, or does it vary? How do consumers respond? Estimating the price-elasticity of demand requires frequent measurements of both price and quantity, both to generate an adequate number of data points and to avoid confounding price effects with long-term trends or cohort effects on the demand side.

One alternative to random sampling often used in market research is a panel survey, where questions are asked repeatedly of the same group of respondents. Panel data would be enormously useful in understanding the effects of market conditions on drug use, and the individual patterns of drug consumption. For example, when drug supplies are short, how are consumption decreases distributed among new users and existing users, poor users and affluent users, heavy users and light users? What drugs are used as substitutes when marijuana is scarce or expensive? How many users, who cease use when supplies are tight, never start up again, or start up at lower levels of use? An obvious problem is assuring respondent confidentiality, and convincing respondents that it is assured. Perhaps more worrisome, being members of such a panel might make respondents more drug-conscious, which raises serious ethical questions, as well as threatening the validity of such studies.

Obstacles

Naturally, proposing such studies for someone else to fund and carry out is much easier than doing the work. Aside from the problems of expense and the mass of legal, ethical, and operational issues raised by asking detailed questions about illegal transactions, such studies would face several obstacles:

First, they would have to be cleared by the Office of Management and Budget, which views any expansion of survey research by the government with a jaundiced eye. The complexity of the questions to be asked strongly argues for the value of paying respondents a small fee to encourage them to complete the interview, but this makes OMB reviewers even more nervous. (The 1981 household survey didn't get into the field until 1982 because of a dispute with OMB about forms and payments to respondents.)

Second, modifying the existing surveys in terms of content or sample selection will interfere with the ability of researchers to compare results from one survey to the next to determine trends. The preference of survey researchers for asking the same questions in the same words to the same samples is not mindless conservatism, but a well-founded belief in the virtues of repeating measurements exactly, rather than changing survey series represents a big investment of money and talent.

Finally, it is worth noting that neither the National Institute on Drug Abuse, which funds the current surveys, nor the researches who conduct them, share the policy and research perspective urged here. NIDA is far more interested in the patterns of drug abuse than in the size and functioning of the drug markets. Nor is there any demand for this sort of research from the enforcement and prosecution agencies.

Surveys of Dealers

The discussion above concerns only surveys of drug users. It is also possible to survey drug dealers, asking both about their own dealings -- transactions, strategies for dealing with customers, suppliers, and enforcement agencies, incomes, expenses, encounters, if any, with organized crime, opinions of enforcement risk, pricing policy, recruitment into the trade, career patterns and goals -- and about their knowledge of how the drug markets work. There is probably no better way to start on serious estimates of, for example, how many marijuana or cocaine to deliver drugs to the market -- is more plausible the fewer the participants, and the more stable the organizational structure, of any given market.

Finding and interviewing a sample of dealers poses both problems and risks for the researcher. However, we do have access to a sample of drug dealers with nothing better to do than answer questions: they are in federal and state prisons. Of course, they may be unrepresentative of the overall dealer population, particularly in terms of their success in avoiding enforcement, and may also be unwilling to be interviewed, or to speak candidly.

Still, if systematic interviews could be conducted with a sample of convicted drug dealers, the results could not fail to be informative. The Rand Corporation is now conducting a pilot study along those lines funded by the National Institute of Justice.

CONSEQUENCE DATA

One alternative to asking people about their consumption of illicit substances is to observe the consequences of drug abuse. These consequences include coming into contact with both the police (arrests, automobile accidents) and the health care system: hospital emergency rooms, medical examiners' offices, and drug treatment facilities. There is now no systematic attempt to record drug intoxication at arrest or at accident scenes of drug users, but the National Institute of Drug Abuse maintains three collection activities to gather medical data: the Drug Abuse Warning Network (DAWN), the Client-Oriented Data Acquisition Process (CODAP) and the Community Epidemiology Work Group (CEWG).

The Drug Abuse Warning Network (DAWN)

The National Institute on Drug Abuse collects and publishes [National Institute on Drug Abuse Statistical Series I] information from about one-sixth of the nation's emergency rooms, with a heavy concentration on 26 metropolitan areas (SMSA's), and from about two-thirds of the medical examiners in those 26 SMSA's only. The emergency rooms report on patients who come in as a result of acute ill experiences with the non-medical use of drugs; the medical examiners report on persons who, in their judgment, died as the direct result of drug use. In 1981, the most recent year for which the data have been published, the DAWN system recorded 121,268 emergency room visits and 2,825 deaths, as a result of drugs. (The deaths exclude New York City, which did not report to DAWN in 1981; in previous years, New York had accounted for about one-quarter of DAWN medical examiner reports.)

DAWN records all drugs used incidents of multiple drug abuse: thus 121,268 emergency room "episodes" yielded 199,400 "mentions," and 2,825 deaths involved 5,640 mentions. Heroin is the third most frequently-mentioned drug in emergency rooms, after alcohol-in-combination (alcohol alone is now counted in

DAWN) and diazepam (Vailium). Cocaine is sixth, marijuana seventh. Others in the top ten are aspirin, methaqualone, acetoninophen (Tylenol), flurezapam (another tranquilizer) and PCP. Heroin, marijuana, and cocaine, the three largest drug markets in dollar terms, account for fewer than 20,000 total mentions among them. This is such a tiny proportion of the users of these drugs (about 1 in 50 heroin users, about 1 in 1,000 cocaine users, about 1 in 5,000 marijuana users) as to make any inferences from the DAWN sample to the general population extremely questionable. In any case, other than personal demographic data, no questions are asked of DAWN subjects other than "what did you take?" For some drugs, even the answer to this question may be open to doubt, since illicit drug sellers frequently misrepresent their wares, and DAWN sites are not equipped to assay blood or urine to determine the chemical composition of the "speed" or "ludes" that subjects report they have taken.

Attempts to base estimates of patterns and trends in drug availability on DAWN data [NNICC 1985], but they have not been convincing. DAWN is valuable as an early warning network about both street drugs and pharmaceuticals causing injury and death;

but it does not, and almost certainly cannot, contribute much to our understanding of the kind of drug trafficking that contributes to organized crime.

The Client Oriented Data Acquisition Process (CODAP)

Through 1981 NIDA gathered data from all federally-funded drug treatment clinics and programs and published them as NIDA Statistical Series E. Incentive to participate was provided by making participation a condition of funding under the NIDA categorical grant program that paid for drug treatment. The abolition of that categorical grant program and the inclusion of drug treatment in the Community Development Block Grant program of direct fiscal assistance to the states both reduced the total number of drug treatment facilities and eliminated any direct relationship between the clinics and NIDA. As a result, NIDA can no longer compel participation in CODAP. Approximately 15 states have voluntarily continued to submit CODAP data, and NIDA collects the information and prepares an unofficial series of annual reports. In 1981 there were 249,206 admissions to CODAP facilities, more than three-fourths for outpatient treatment. (Persons admitted more than once during the year were double-counted, so the number of individuals admitted was somewhat smaller). At any one time there were an average of 126,000 persons under treatment, almost 85 percent as outpatients.

While CODAP collected demographic data and information about the drugs for which its clients sought or were assigned to treatment, it did not collect data about individual purchase and consumption patterns. Variations in CODAP counts over time might indicate either increases in abuser populations brought about by increased availability, growing numbers of addicts without connections brought about by decreased availability, or merely increased availability of treatment. CODAP data were of great interest to treatment professionals and produced interesting time-series data on such indicators as age at first use (which allowed some inferences about "cohort effects"). However, CODAP had even less direct relevance to enforcement planning than did DAWN. While local studies of enforcement effectiveness may wish to gather data on treatment demand [Kleinman,-Holland, and Hayes 1984], this can probably be done as effectively on an ad hoc basis as through a process like CODAP. Reviving that process would not seem to be a high priority from the viewpoint of organized-crime policymaking.

The Community Epidemiology Work Group (CEWG)

The Community Epidemiology Work Group, also supported by NIDA, collects reports from drug abuse prevention and treatment experts and officials around the country about patterns and trends as they perceive them in their own areas, and summarizes and publishes those reports in volumes of "Proceedings" [NIDA, 1984]. The local reports are not in standard format, and CEWG does not generate statistical series. Prices are occasionally mentioned; quantities rarely, if ever. It is conceivable that CEWG participants might be encouraged and funded to develop informal "panel studies" among drug users in their own areas. But this would represent a substantial move away from CEWG's current informality.

Changes and Other Studies

As suggested above, drug abuse consequence data have little promise of contributing much to making or evaluating strategy against organized crime. The one source not now tapped is arrest data. Arrests of users -- particularly heroin users -- for property crimes and prostitution may be quite sensitive indicators of short-run changes in availability. To develop such data, it would be necessary to test arrestees' urine for the presence of opiate metabolites and quinine. The National Institute of Justice is funding a few pilot programs along these lines. Assuming they turn out to be operationally feasible, they probably represent a wise investment of funds.

ENFORCEMENT DATA

From the agencies that arrest, prosecute, try, and imprison drug traffickers and seize their drugs and other assets, we can gather valuable data both about the enforcement activity and about the underlying illegitimate market. Some of this information exists, or can readily be obtained, in statistical form; the rest is buried in case reports, informant interviews, and intelligence analyses. The one governmentally-published series estimating the revenues in the drug markets, the annual Narcotics Intelligence Estimate, [National Narcotics Intelligence Consumers Committee, undated] is prepared primarily by enforcement agencies (particularly DEA) and apparently in large part from enforcement sources.

Information About Enforcement Activity

Three things about enforcement activity are of interest:

(1) **Inputs.** What resources -- measured in dollars, agent-hours, prosecutor-hours, cell-years, ship-days, wiretap orders under Title III -- are spent on drug enforcement, and how are those resources divided among agencies, geographically, by target drug, by enforcement technique, and by the trafficking activity under investigation (high-seas smuggling, port smuggling, first domestic distribution, wholesaling and middleman activity, retail dealing, money laundering)?

Even at the Federal level alone, something as relatively simple as a comprehensive dollar budget broken down by agency and by drug is not available. An attempt has been made to estimate the share of marijuana in total Federal enforcement; it illustrates both what is and what is not available [Kleiman, 1985, Ch. 3]. Assembling such data is best done within the government, by an agency with the authority to demand the relevant documents, than by outsiders; the Drug Policy Board, the Office of Management and Budget, the White House Drug Abuse Policy Office, any one of the cognizant Congressional subcommittees, the General Accounting Office, or the President's Commission on Organized Crime could, by collating budget submissions from the agencies involved, assemble crude but adequate estimates of dollars spent by agency and drug rather easily.

Assembling meaningful information about inputs in non-monetary forms (e.g., work-hours) would be a tedious process, requiring both access to internal agency reporting systems and an understanding of how those systems represent or misrepresent reality. However, assuming that something resembling the DEA's annual statistical report [Drug Enforcement Administration, 1984] is available from the Coast Guard, Customs Service, IRS, and FBI, it might be possible to assemble a fair picture of Federal enforcement activity. Federal prosecution ayenices do not now have the ability to generate statistical profiles of their work that would be useful here. The case-management software system (PROMIS) being installed in the U.S. Attorneys' offices may be able to produce estimates of prosecutive work-hours by case type, although thesystem may not code enough of the case data (e.g., G-DEP rank of case and defendants) to allow useful analysis.

The Administrative Office of U.S. Courts can produce cases-ending counts by offense, although this overestimates drug cases s a proportion of total cases to the extent that drug defendants re more likely than others to default on bail and thus remain as ctive cases for long periods of time; no estimates are made of he use of judge-days or grand jury days for various kinds of cases. Moreover, since the statute names and numbers attached to a given drug charge (manufacture, distribution, conspiracy, continuing criminal enterprise, etc.) do not vary with drug involved, it is almost impossible to separate the conviction data by drug. It is possible to make very crude estimates of Federal prison-cell utilization by convicted drug dealers from the court data. The attempt to work directly from DEA data [Kleiman 1985 pp. 78-80] is frustrated by the fact that the DEA statistical report lists total convictions, rather than convictions in Federal courts. The lack of a unified set of file numbers for the federal criminal-justice agencies, or a set of links from one file system to the next (what is called an "Offender-Based Tracking System," or OBTS) makes it nearly impossible to trace a sample of DEA defendants through prosecution and incarceration.

The primary problem with assembling such data is not technical, but organizational: its collection and dissemination are not in the perceived interests of the agencies involved or the key individuals within them. While that remains, little progress is to be expected. Below the Federal level, the situation is much worse; there are simply no published figures on drug enforcement spending or activities by state and local police agencies, most of which do not have separate drug enforcement units.

The current paucity of data on enforcement activities would frustrate any attempt to study the effects of changes in enforcement resources on the drug markets, even if adequate price and quantity data were in hand. This problem is not easy to fix; unless the agencies involved have their own reasons for collecting the data, it will be difficult either for "outsiders" -- even from within the government -- to do the job or to persuade the agencies to do it instead. The situation is similar for state and local enforcement; in the absence of any convenient ways of getting nationwide data, a few studies of individual cities and states might be useful.

(2) **Outputs.** How do those inputs translate into enforcement actions felt by traffickers: arrests, convictions, sentences, time actually served in prison, drug seizures, asset

seizures? How are those outputs distributed geographically, by drug, by level of the traffic?

These figures are less nebulous than resource and workload data; a man-hour is "the stuff that dreams are made on," but an arrest actually happens. Nonetheless, although DEA reports its arrests broken down by almost every possible variable, [DEA 1984, pp. 339-93] there is no government-wide collation of all arrest reports. Convictions and prison time, as noted above, are simply not available in useful formats.

Even drug seizure data are complicated by the multiplicity of agencies involved; simply adding together agency totals runs the risk of double-counting. [General Accounting Office, 1983.] The first annual report of the Organized Crime Drug Trafficking Task Force program gives government-wide numbers that may be reliable [Department of Justice, 1984, p. 29].

Data on asset seizures are complicated both by interagency (and Federal/State/local) cooperation and by the complexity of seizure cases: appraised value is one thing, realized value less lienholders' equity something very different. The lags in forfeiture actions against seized items, plus the growth in the overall level of seizures, make it difficult to compute seizure-to-forfeiture ratios, because 1984 forfeitures do not correspond to 1984 seizures. Some central responsibility for this area was assigned to the U.S. Marshal Service and the Asset Forfeiture Office of the Criminal Division of the Justice Department; those agencies may now be in a position to provide unified statistics.

Arrests, convictions, seizures, and prison time are basic measures of risk imposed on the illicit drug industry, and it is very hard to plan or evaluate policy in their absence. Unlike most of the input numbers, good output measures can be assembled with only minimal cooperation from the agencies themselves, if someone with authority insists on it.

Below the Federal level the situation is more dismal. Other than the uninformative counts of total drug arrests in the Uniform Crime Reports, no national data are available. It has been almost ten years since the last national study of state prisoners by offense category, and even that study combined all drug offenses into one category. Here again, the best that can be hoped for is a few well-done local studies.

(3) **Effects.** Enforcement actions impose costs and risks on illicit entrepreneurs and thus tend to increase prices and perhaps to make supplies less reliable. To some extent the cost-imposition value of a given enforcement action -- the imprisonment of a major marijuana importer for an effective term of six years, the seizure of one kilogram of 90 percent pure heroin from a New York City wholesaler -- can be calculated, and those costs can be added together to estimate the effects of enforcement on the market [Kleiman, 1985, pp. 96-101, and Kleiman and Reuter, forthcoming]. Such calculations could contribute substantially to policy analysis and evaluation. They could form the basis for comparisons of alternative enforcement techniques in terms of the costs imposed on a given drug market per government dollar spent. However, to make them accurately one needs the right kind of tabulation of enforcement outputs.

The value of any illicit drug grows enormously as it moves down the distribution chain toward the final consumer. A kilogram of heroin that sells for $200,000 is the raw material for street bags of heroin worth more than $2 million. Adding together physical volumes seized at different stages of the traffic is adding apples and oranges. Each seizure should be evaluated at the point where it is seized, and then the values added together. The "street value" calculations, so beloved by reporters, resemble calculations of the value of stolen cattle based on the price of a steak dinner in a restaurant. Given estimates of the "price chains" (of which more below), simple rules of thumb, based on quantity and location, will give reasonable estimates of the coast imposed on the illicit market by drug seizures. Imprisonment data also need to be quality-weighted. The higher in the trade a trafficker is, the more dollars he would spend to avoid a year in prison, both because he has more dollars and because any given period in prison costs him more in lost earnings. That willingness-to-pay per prison-year-willingness-to-pay of traffickers at different levels. But unless the data on imprisonment are collected by drug and G-DEP violator class, there are no figures to use in calculation.

Information about Drug Trafficking and Organized Crime

Enforcement activity yields two kinds of information about drug trafficking: (1) that which can be inferred from the enforcement statistics, and (2) that known to (and sometimes published by) agents, prosecutors, and enforcement-agency intelligence analysts.

(1) **Inferences from Enforcement Statistics.** Lost in the organizational history of the Federal Bureau of Narcotics is the unsung hero who first proposed the rule of thumb that enforcement agencies capture about 10 percent of the drug supply on its way to market. That rule of thumb allows (once the problems with the seizure data are straightened away) a simple calculation of the physical size of the drug markets: take seizures and add a zero. More of the official drug market estimation than anyone would like to admit is still based on some variant of that methodology.

There are two problems with this calculation. First, there was never a period when we had a good measure of the total market traffickers will tend to lower it. In fact, if the change in enforcement is great enough to cause shifts in basic smuggling patterns, the result may be a lower overall seizure rate despite a higher level of enforcement. This seems to have been the case for the South Florida Task Force, which succeeded both in driving drug smugglers away from its territory and in causing many of them to switch from large vessels to smaller, faster vessels; total seizures actually fell.

The same is true of using other enforcement measures as estimates of market size. The enforcement success count depends on the size of the market, the vigor and tactics of enforcement, and the countermeasures of traffickers. Without an independent basis for estimating the effect of countermeasures, the success count tells us little even about trends in the size of the market.

(2) **Facts and Analysis From Agents and Agencies.** Drug enforcement agencies are not in business to collect data or do analysis; they are in business to put drug dealers in jail and seize their drugs. Like other agencies, they tend to collect and publish data that will help them do their job better, will persuade someone else to help them do their job better, or will make them look good.

Traditionally, the Drug Enforcement Agency and its predecessors defined their mission as controlling the supply of drugs. Thus, for example, the estimates of the price and purity of heroin at retail were published as part of the "Performance Measurement System," implying that drug availability was an important measure of agency effectiveness. This mission definition encouraged the development within DEA of an extensive "strategic intelligence" capability, devoted to understanding the drug markets. By contrast, the Federal Bureau of Investigation has always defined its mission as securing the conviction of lawbreakers. It regarded the number of bank robbers it caught, rather than the number of bank robberies, as its central performance measure. Since the 1981 reorganization that placed DEA under the administrative authority of the Director of the FBI, DEA's mission definition has moved closer to the FBI's. At least in part, this reflected a belief that enforcement outputs were more subject to organizational control, and thus more likely to consistently reflect organizational success, than drug market outcomes. This new mission definition may have advantages from the perspective of organized crime control. The supply-controlapproach tended to stress quantities of drugs rather than trafficking organizations as targets. However, the new mission definition is much less hospitable to strategic, as opposed to operational, intelligence.

(a) Price Chains. In the past DEA devoted considerable energy to estimating "price chains" for drugs, based on undercover buys and data from informants. That information, insofar as it was accurate, told a great deal about the structure of the markets, and in particular about where the money was being made. It was never formally published, but it was estimated on a quarterly basis and available to the rest of the government. It appears that such "price chain" estimates are no longer made, or no longer made available. If true, that should be rectified. There is no other source for that information, and it is essential. There is an enormous amount of relevant information in DEA case files. Undercover transactions, intercepted communications, and conversations with informants all contain price data. The problem is maintaining a staff to collate and analyze what is there. One improvement that could easily be made in publishing all statistics on drug prices is to adjust past prices for the effects of inflation, using the Consumer Price Index or GNP deflator. Otherwise, anyone trying to determine price trends has to keep looking up the rate of inflation since 1976, or whatever appropriate date.

(b) "Monitor" Programs. DEA has never had a substantial number of retail-level cases, but the Performance Measurement System required data about retail price and purities for heroin across the country. These were accordingly collected by the simple expedient of sending agents out to make undercover retail purchases and collecting retail samples from local police
to seek good quality at low prices? More seriously, "retail" included samples as large as 2 grams and up to 14 percent pure,

while the typical actual retail transaction is for 100 milligrams (one-tenth of a gram) less than 5 percent pure.

Now that price-purity data are no longer publicly released, there seems to be somewhat less monitoring activity than in the past. It may well be true that a program run by local police units (perhaps with funding from DEA or NIJ) would be more effective than DEA-run monitoring efforts. (Unofficial researchers might develop even more accurate results, but the legal and ethical problems seem insurmountable). But whether run by DEA or outside, there is no substitute for actual street buys as an index of market conditions, and not only for heroin.

Enforcement-based Analysis: NNICC

The National Narcotics Intelligence Consumers Committee (NNICC, pronounced "nick") is the official custodian of estimates regarding the drug markets. It was originally established to help control the embarrassing flow of mutually contradictory estimates that used to emerge from various Federal agencies. Although staffed primarily from DEA, it includes a broad variety of agencies as members, and its reports are negotiated products.

At one time, the NNICC annual report, called the Narcotics Intelligence Estimate, provided sources, physical volumes, and dollar revenues for each of the four major drug categories: opiates, cannabis, cocaine, and the "dangerous drugs." Subsequently, criticism of the dollar-volume estimates, both from outsiders [Carlson, 1983] and from within the NNICC staff, [NNICC, 1983] led to a decision to cease publication of dollar-volume estimates. At the same time the marijuana estimates for previous years were restated downward by approximately one-third. As the NNICC methodology review makes clear, the NIE figures are largely derived from estimates of farm-level production in foreign source countries, because the data sources on the consumption side are so inadequate [NNICC, 1983, pp. 17-28]. However, that same report [pp. 9-16] shows how weakly grounded the production-based estimates are. The crop figures themselves are hard to distinquish from guesswork, and the fraction of each country's crop reaching the U.S. market is fundamentally unknown.

Still more serious is a problem not considered in the methodology review: that a large fraction ofthe total crop in the average year may go unsold. But a peasant marijuana-grower, for example, deciding how many plants to grow under uncertainty both about crop yields and about demand from exporters, will, if he is rational, overplant on average. Marijuana is so lucrative, compared with other crops, that it makes sense to grow an extra plant, even if there is only one chance in five of selling it for export. Of course, if there were a smoothly functioning competitive market over wide geographic areas, the result would be lower prices rather than unsold crops, but the market in marijuana for export may be highly localized, with exporters buying from nearby farmers even if prices elsewhere are much lower.

In general, then, it is hard to place much confidence in the NIE numbers, particularly because they are presented as a just set of conclusions, without any detailed presentation of the underlying data or the calculations performed on that data. One way to improve this situation would be to gather better data,particularly about consumption, as discussed above.

On the purely analytic side, two things might be done: (1) NNICC might publish more of its underlying data and some of thedetails about the calculations performed on them, or (2) a team of outside scholars might be allowed full access to NNICC materials and asked to prepare an independent estimate.

But whether one considers improving the data with which NNICC has to work or changing the analytic approach, the fundamental problem remains one of organizational incentives. The current lack of adequate data or convincing analysis is not a problem from the perspective of DEA or other enforcement agencies. If the information were available, there is no reason to expect that it would be used to reshape what agents and prosecutors do. In fact, by providing outsiders with a basis on which to criticize, data and analysis might seem to threaten agency autonomy. Nor have the White House or Congressional staffs concerned with these problems displayed any anxiety over the absence of information. The first step in solving a problem is getting it identified as a problem by someone with the resources to bring about a solution. In this area, that step remains to be taken.

BIBLIOGRAPHY

ureau of Justice Statistics, *Bulletin*, "Federal Drug Law Violators," Washington, D.C.: U.S. Department of Justice, February 1984.

arlson, Ken et al., "Unreported Taxable Income from Selected Illegal Activities," Cambridge, MA: Abt Associates, 1983.

layton, Richard R., and Harwin L. Voss. *Young Men and Drugs in Manhattan: A Causal Analysis*, Rockville, MD: National Institute on Drug Abuse Research Monograph 39, September 1981.

epartment of Justice, *Annual Report of the Organized Crime Drug Enforcement Task Force Program*, Washington D.C.: 1984.

rug Enforcement Administration, *Annual Statistical Report, FY 1984*, Washington, D.C.: Statistical Services Section, Office of Planning and Evaluation, Planning and Inspection Division.

eneral Accounting Office, *Federal Drug Interdiction Efforts Need Strong Control Oversight*, Washington, D.C.: Report GGD-83-52, 1983.

Johnston, Lloyd D., O'Malley, Patrick M., and Bachman, Jerald D., *Use of Licit and Illicit Drugs by America's High School Students, 1975-1984*, Rockville, MD: National Institute on Drug Abuse, 1985.

Kleiman, Mark, *Allocating Federal Drug Enforcement Resources: The Case of Marijuana*, Harvard University: Ph.D. dissertation, 1985.

Kleiman, Mark, "Drug Enforcement and Organized Crime," in Alexander and Caiden (eds.), *The Politics and Economics of Organized Crime*, Lexington, MA: Lexington Books, 1984.

Kleiman, Mark A.R., and William E. Holland and Christopher Hayes, "Report to the District Attorney for Essex County: Evaluation of the Lynn Drug Task Force," Harvard University: Program in Criminal Justice Policy and Management, J. F. Kennedy School of Government, October 24, 1984.

Maltz, Michael D., "Toward Defining Organized Crime," in Alexander and Caiden (eds.), The Politics and Economics of Organized Crime, Lexington, MA: Lexington Books, 1984.

Marquis, K.H. et al., Response Errors in Sensitive Topic Surveys, Santa Monica, CA: The Rand Corporation, R-2710/2-HHS, April 1981.

Miller, J.D., et al., National Survey on Drug Abuse: Main Findings 1982, National Institute on Drug Abuse, Washington, D.C.: U.S. Government Printing Office, 1983.

Moore, Mark H. and Dean R. Gerstein, eds., Alcohol and Public Policy: Beyond the Shadow of Prohibition, Panel on Alternative Policies Affecting the Prevention of Alcohol Abuse and Alcoholism, Washington, D.C., National Academy Press, 1981.

National Institute on Drug Abuse, Drug Abuse Indicator Patterns and Trends, Community Epidemiology Work Group Proceedings, Rockville, MD: Division of Epidemiology and Statistical Analysis, December, 1984.

National Institute on Drug Abuse, Data from the Client Oriented Data Acquisition Process, Series E, Number XXV, Rockville, MD: Annual Data Report 1981, Data from the Drug Abuse Warning Network.

National Institute on Drug Abuse, Division of Data and Information Development, Statistical Series, Series I, Number I, Rockville, MD: Annual Data Report 1981, Data from the Drug Abuse Warning Network.

National Narcotics Intelligence Consumers Committee, Narcotics Intelligence Estimate: The Supply of Drugs to the U.S. Illicit Market from Foreign and Domestic Sources in 1984 (with Projections Through 1983), Washington, D.C.: undated (published October 1985).

National Narcotics Intelligence Consumers Committee, Evaluation of the Methodologies for Producing the Narcotics Intelligence Estimates, Washington, D.C.: August, 1983.

O'Donnell, John A., et al., Young Men and Drugs -- A Nationwide Survey. National Institute on Drug Abuse Monograph, Series No. 5. Washington, D.C.: U.S. Government Printing Office, 1976.

ich, J. Michael, Phyllis L. Ellickson, Peter Reuter, and James
. Kahan, *Strategies for Controlling Adolescent Drug Abuse*,
Santa Monica, CA: The Rand Corporation, February 1984.

ter, Peter, "The (Continuing) Vitality of Mythical Numbers,"
The Public Interest 75 (Spring 1984).

uter, Peter, and Mark Kleiman, "Risks and Prices: The
Economics of Drug Enforcement," in Tonry and Morris (eds.)
Crime and Justice: An Annual Review of Research (1986
edition), in press.

om, R., "Survey vs. Sales Data for the U.S., "*Drinking and Drug
Practices Surveyor*, 3:15-16, 1971.

helling, Thomas, "What is the Business of Organized Crime?,"
Journal of Public Law 20 (1971), pp. 71-84. (Now the *Emory Law
Journal*) Reprinted in Schelling, *Choice and Consequence*,
Cambridge, MA: Harvard University Press, 1984.

imon, Carl, and Ann Witte, *Beating the System*, Boston, MA:
Auburn House, 1982.

inger, Max, "The Vitality of Mythical Numbers," *The Public
Interest* 23 (Spring 1971), pp. 3-9.

RECOMMENDATIONS FOR THE REGULATION OF SELECTED CHEMICALS AND CONTROLLED SUBSTANCE ANALOGS

By Frank Monastero

Submitted: September 1985

Frank Monastero retired in 1985, having served as the Chief of Operations of the Drug Enforcement Administration.

As we can see from media reports, cocaine has fast become the nation's number one drug abuse problem. The supply of cocaine coming from South America has reached overwhelming proportions. In 1985 alone the Drug Enforcement Administration (DEA) estimates seizures will reach 50,000 pounds, and this, of course, does not account for that part of the supply that ultimately reaches the more than 20 million regular users.[1]

Another facet of the drug abuse problem, which could grow as rapidly if not addressed promptly, is that of controlled substance analogs, known as "designer drugs." These are clandestinely produced substances not covered by the Controlled Substances Act because of their chemical structure.

Most drugs, including those manufactured illicitly, are produced at least in part from commercially available chemicals. The purpose of this paper is to examine the feasibility and desirability of regulating certain of these chemicals. It will also analyze how to curtail illicit production and examine what legal mechanism would be effective to control the manufacture of synthetic analogs (designer drugs), produced for illicit purposes.

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[1] NIDA Statistics.

Cocaine abused in the United States has its origin from the ca bush, a very hardy plant, grown in certain areas of South d Central America. As in the case with almost all drugs,[2] ether produced from plants or totally synthetic, one or more ecursors, reagents or solvents is used in the process. These emicals are defined as follows: a precursor is a raw material ed in the production of a controlled substance that becomes rt of the finished product; a reagent reacts chemically with ne or more precursors but does not become part of the finished roduct; a solvent, which does not react chemically with a recursor or reagent and does not become part of the finished roduct, is used to dissolve solid precursors or reagents, to ilute reaction mixtures, and to separate and purify other hemicals. For example, a precursor for cocaine is coca leaves, a reagent is sulfuric acid, and a solvent used in the manufacturing process is acetone. With respect to methamphetamine, a precursor is phenyl-2-propanone, a reagent is sulfuric acid, and a solvent is methanol. It is important to understand that, in the case of these and other controlled substances, there are many other precursors, reagents and solvents, which can easily be substituted to produce the same final product.

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[2] Drugs such as marijuana, mescaline and psilocybin are usually not processed with chemicals.

With some exceptions[3] only the final product drug itself, is a controlled substance. Many of the chemicals used to produce or refine illicit drugs are needed in industry to produce a myriad of items and are produced in tremendous quantities. Controlling their distribution would, in most cases, be impossible and probably undesirable because of the cost alone. Acetone, for instance, which is used as a solvent in processing opium and coca leaves, is used to make paints, lubricants, pharmaceuticals, cosmetics and agricultural products.

Although controlling all precursors, reagents and solvents used to manufacture illicit drugs is neither desirable nor feasible, the idea of controlling certain chemicals has merit. In fact, some chemicals are now subject to regulation. Piperidine is a precursor to the controlled substance phencyclidine, commonly known as PCP, which can have serious physical and psychological consequences when abused. Piperidine is subject to reporting requirements under the Controlled Substances Act, although its possession and distribution are not subject to penalties, as is the case with the possession and distribution of

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[3] Coca leaves, opium poppy and poppy straw among others. See 21 U.S.C. 812(c).

CP. Forms recording the sale[4] of piperidine and the urchaser's name must be maintained for two years. Anyone who ells piperidine must report the sale. This reporting procedure llows DEA to monitor sales of piperidine and to investigate hose sales recognized as suspicious by either DEA or the seller. s a result of concerted efforts begun in late 1984, DEA has seized four clandestine PCP laboratories and has located at least ten operations that received chemicals from legitimate channels by posing as legitimate businesses. In one case a manufacturer shipped a substantial amount of piperidine to a "chemical company" over an extended period, all in good faith based on the company's name. A check of the address by DEA showed it to be an auto repair shop.

Precursors, reagents and solvents are used to manufacture many drugs, including synthetic analogs, drugs so close in structure to controlled substances that they create virtually the same effect for the user. These are not covered under the Controlled Substances Act because of minor differences in molecular structure. Synthetic analogs, commonly known as "designer drugs," pose particular health threats.

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[4] DEA Form 420

The production of controlled substance analogs, pharmacologically active, chemically related substances, to avoid the laws regulating controlled substances, was first observed in the mid-1960's with the synthesis of amphetamine analogs of mescaline, such as MDA and others. Some of this group of hallucinogenic amphetamines sold on the illicit market were brought under the Drug Abuse Control Amendments, a predecessor to the Controlled Substances Act. Others in the group were subsequently controlled under the Controlled Substances Act after its passage in 1970. Later three PCP analogs were controlled.

The process of designing analogs is, therefore, not new, and the formulas are not primarily a phenomenon of clandestine laboratories. Most of these drugs were developed by legitimate pharmaceutical chemists in search of better medicinal agents through the testing of numerous analogs of a parent compound. It is not surprising, therefore, that some of their precursors have names such as N-(1-phenethyl-4-piperidinyl)-aniline (for fentanyl) or N-[1-(2-phenylisopropyl)]-4-piperidinone-4-one (for alphe- methylfentanyl). These analogs, in many cases, mimic the qualitative actions of the original compound but may vary in potency or duration of action. Thus, there is a need to deal both with the problem of chemicals used in the production of licit drugs and with the problem of controlled substance alogs.

actors Affecting the Regulation of Chemicals

There are in excess of 200 precursors, reagents and solvents sed in the production of the 37 most commonly abused substances. mong these are amphetamines, barbiturates, cocaine, Diazepam, ash oil, heroin, LSD, MDA,PCP and methaqualone. In considering what should be regulated two factors are most significant: (1) How common is the chemical interest? (2) How great is the workload to track the needed information? Each situation must be examined individually, if the objective is to reach an ultimate solution for each drug.

It is quickly apparent that there is no ultimate, universal solution to absolute chemical control for all drugs. Acetone and ether, although widely used, are subject to tracing. Piperidine, less available commercially, is easily synthesized. The first conclusion might well be that if the source of the chemical is known and that source will identify and report suspicious sales, the investigator will be able to pursue the investigation. Obviously, this will not help when all chemicals can be obtained from illicit sources. But when the source will provide assistance or at least when sales information is available for review, tracing can be attempted.

The problem then becomes one of resources. How much information can be reviewed and how many people are available to pursue leads. These are very significant factors to consider. If, indeed, all chemicals used in the production of controlled substances were reported it is unlikely the responsible agency could cull the most suspicious orders, let alone investigate them. The computer input itself would be substantial. Furthermore, the drug abuse situation is constantly changing, and a chemical, not of interest today, might be a prime target as a new drug emerges.

se Study: Ether

Because cocaine abuse is a serious problem in the United ates at this time and because an increasing number of cocaine boratories are being seized, it is important to examine the emical control of cocaine. To refine coca, dried leaves are oistened with an alkaline solution, such as lime water, sodium r potassium carbonate. The moistened leaves are soaked in erosene, which extracts cocaine and similar compounds. The erosene is extracted with aqueous sulfuric acid, and the acid eutralized with limestone or lime. After the cocaine precipitates and is removed by filtering, it becomes coca paste. To become cocaine base, the paste is dissolved in a solution of sulfuric acid, and a solution of potassium permanganate is added to aridize impurities. The solution is filtered to remove impurities and manganese oxides. Ammonium hydroxide is added to the filtrate, and the precipitate is collected and dried, forming the base. The base is dissolved in acetone or ether and filtered to remove insoluble material. Concentrated hydrochloric acid is added in acetone along with ether. Cocaine hydrochloride will crystallize from this solution and is collected by filtration and dried. The ratio of base to cocaine hydrochloride is one to one.

Because ether and acetone are readily available in the United States, traffickers recognized the advantage of processing here, and the number of base to hydrochloride laboratories seized increased steadily from 3 in 1980 to 21 in 1984; as of mid-1985, there were already 25.

Six reagents are used to refine cocaine: ammonia, hydrochloric acid, lime, limestone, potassium carbonate, potassium permanganate and sulfuric acid. The four solvents used are acetone, ethanol, ether and kerosene. These could be targets for monitoring or control. However, after considering the availability and usage of each chemical, the possible targets can be narrowed to acetone and ether. As mentioned earlier, acetone has a number of legitimate uses. An estimated 2.5 billion pounds is produced each year in the United States, a commercial value of about $400 million. There are 12 major U.S. producers and over 40 foreign sources. Although usually produced from petroleum or synthesized from benzene, there are other processes to produce it. Nonetheless, acetone, in fact, was selected as a target, and the targeting did produce results. Ether, likewise, has broad use, with a U.S. production estimate of over 60 million pounds, but with only five U.S. producers and seven major foreign sources.

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er, therefore, represents, and did turn out to be, an even ter target.

Early in 1982 a project was undertaken to determine how much her was being shipped to Colombia and to what, if any, gitimate uses it was put. Colombia was selected because, though most of the coca is grown in Bolivia and Peru, most of e cocaine processing laboratories were known to be in Colombia. e Colombian government determined that thousands of gallons of her were being imported annually, but that there was virtually legitimate need for it. Most of the ether was imported from e Federal Republic of Germany and the United States. Through iaison with those ether manufacturers and distributors who would ooperate, hundreds of barrels of the chemical were tracked to landestine laboratories deep in the Amazon jungles of Colombia. any of these labs were destroyed and thousands of pounds of ocaine were seized. In the celebrated Tranqualandia raid in arch 1984, 10,000 kilograms of cocaine paste and base were eized and destroyed, along with thousands of barrels of hemicals. Through court testimony and media attention, cocaine roducers have, no doubt, become aware of the detection echniques used to locate laboratories, and they are or will take ction to avoid detection. Opportunities for a continuing supply of ether exist through unscrupulous manufacturers and distributors and through clandestine production from ethanol. However, the program has been useful and demonstrates the effectiveness of the monitoring approach.

Case Study: P2P

In addition to tracking chemicals, such as ether, another approach is to bring certain chemicals under the Controlled Substances Act. For experience with this approach, it is important to examine methamphetamine and one of its precursors, phenyl-2-propanone (P2P). Domestic methamphetamine production is significant. In fact, during a 45 month period beginning in September 1981, more than 50 percent of the 751 clandestine laboratories seized by DEA were methamphetamine labs. In order to control clandestine methamphetamine production, P2P was placed in Schedule II of the Controlled Substance Act on February 11, 1980. P2P is an immediate precursor (used in the step just prior to completion) in the most desirable synthesis and was, therefore, a good choice for targetting. Furthermore, with the exception of its use as a cleaning solution, most of its uses are in connection with pharmaceutical manufacturing. Annual production in the U.S. is estimated to be about 10,000 pounds, ith only two principal domestic producers and nine foreign ources.

Full control of P2P under the Control Substances Act resulted in a significant increase in the number of clandestine methamphetamine laboratory operators synthesizing P2P. More than 75 percent of the laboratories seized after passage were refluxing phenylacetic acid and acetic anhydride with sodium acetate or pyridine. In addition, one laboratory was synthesizing phenylacetic acid as well.

Recommendations for Action

(1) That legislation be enacted requiring the reporting of all sales of selected chemicals used in the production of controlled substances, subject to public notice by the Administrator of DEA that a particular chemical was selected for such control. This would create a requirement similar to that affecting piperidine; however, reporting would only be required for those chemicals specified for a particular period of time. The requirement should apply to the importing and exporting of the specified chemicals.

(2) That legislation be enacted to empower the Administrator of DEA or some other appropriate authority to identify and add new chemicals to the list of those requiring reporting, as it becomes known they are being used for the production of controlled substances.

(3) That DEA identify the resources needed for the computerization, analysis and follow up on reporting and that those resources be acquired through the budget process.

Controlled Substance Analogs

As previously stated, the controlled substance analog problem is not new. However, their wider illicit use and the greater recognition of their use has heightened concern. There have been three major types of analogs available in the United States: analogs of PCP, analogs of amphetamine and methamphetamine having hallucinogenic properties, and the newer trend, analogs of fentanyl and meperidine. There are, of course, hazards common to all three groups. They are likely to contain toxic impurities. Dosage is not consistent, i.e., one dose of a substance is likely to contain a different amount of the active ingredient than another. As a result, a single dose could contain a lethal amount of the drug in question. Because they are analogs, they may well produce toxic effects not caused by their parent drug. Another critical consideration associated with designer drugs is the difficulty of identifying them in the body. Recent testimony at a Senate hearing indicated there are now only two laboratories in the country, capable of identifying certain "designer drugs" in body fluids, because standards for identifying the drugs are not widely available. This creates two serious problems: (1) Without the ability to detect and determine what drugs are being used on the street it is impossible to even identify that a problem exists let along judge its magnitude; and (2) without being able to determine positively what drugs has been ingested, it is impossible to identify the correct antidote, which in many cases could be a matter of life and death.

The Situation in More Detail

PCP was originally developed in the early 1950's as an anesthetic for humans, but it was soon limited to veterinary use because of its adverse side effects. Licit production ceased in 1978, and PCP is controlled in Schedule I of the Controlled Substances Act, as are three of its analogs. They now are recognized as having no medical use. The National Institute on Drug Abuse has identified 35 other analogs, but none has presented an abuse problem as far as is known.

Many analogs of amphetamine and methamphetamine are known to have hallucinogenic affects. One receiving considerable media attention recently, known on the street as "Ecstacy," is MDMA or 3,4-methylene dioxymethamphetamine from the parent compound MDA. Its psychopharmacological effects are similar to those of MDA, altered consciousness, increased acoustic, visual and tactile sensory perceptions and mild intoxication. There is considerable concern among some experts that MDMA is likely to cause damage to the serotonergic system, which has to do with regulating sleep, mood, sexual activity and sensitivity to aversive stimuli. The conclusion is based on research indicating that MDA can selectively destroy serotonergic nerve terminals in the rat brain First recognized in the illicit traffic by DEA in 1970, MDMA was proposed for control under the Controlled Substances Act in July 1984 because of increasing incidents of discovery. However, because of rapidly mounting evidence of abuse since then and possible serious neurological damage, the emergency provisions contained in the Comprehensive Crime Control Act of 1984 were used, and the drug was controlled as of July 1, 1985.

Fentanyl is widely used by the medical community as an analgesic and anesthetic. It was first marketed in the United States for this purpose in 1968 and is the most popular analgesic used in surgical procedures in this country. There are likely several hundred fentanyl analogs, many with pharmacological properties similar to heroin or morphine but far more powerful. The alpha-methyl analog was the first synthetic analog drug recognized in the illicit traffic and was associated with overdose deaths in California in 1979. Sold on the streets as synthetic heroin, or "China White," it was placed in Schedule I of the Controlled Substances Act in September 1981, substantially eliminating its appearance in the illicit traffic. DEA has identified seven additional fentanyl analogs in the illicit traffic since then, however. Interestingly, two analogs have not been recognized in the scientific literature.

There are two dramatic concerns related to the fentanyl analogs: (1) their potency; and (2) their production/profit margin. This second element will be of obvious importance to traditional organized crime elements. Three Methyl Fentanyl, the latest analog to appear in the illicit market, is 3,000 times as potent as morphine and has already been responsible for over a dozen overdose deaths in the San Francisco Bay area alone. This is the highest rate of fentanyl related deaths to date. Dosages for fentanyl analogs are measured in micrograms and are likely t be less than 1 percent of the dosage unit sold to the user. The Drug Enforcement Administration has estimated that one kilogram of fentanyl analog could be manufactured for under $2,000 and that this amount might equal as many as 50 million dosage units, with a street value exceeding one billion dollars.

Meperidine, a synthetic narcotic used to control pain, is frequently used by heroin users when the street supply of heroin is low. Meperidine, known more commonly by its trade name "Demerol," is in the Controlled Substances Act, Schedule II. Tw analogs of meperidine have been found in current use. The first apparent MPPP (1-Methyl-4-Propionoxy Piperidene) abuse came to light in 1976 when a young man synthesized what he thought was the analog for his own use. He soon sought treatment for symptoms of Parkinson's disease. In revealing his drug use he provided the formula and procedures he had used. Subsequent analysis revealed he had, in fact, created MPTP. Additional research by a National Institute of Health grantee showed that MPTP had produced the Parkinson's type symptoms. MPPP was first identified by a DEA laboratory in 1982; and samples of MPPP have been discovered to contain the neurotoxic byproduct MPTP, formed during the synthesis of MPPP. The neurological damage produced by MPTP is irreversible and apparently worsens with time. The State of California has identified more than 500 people who have used MPTP; many users thought it was a new synthetic heroin. Twenty of those involved have been permanently crippled. A group of seven young addicts, who appeared at a California medical center several years ago with symptoms resembling advanced Parkinson's disease, were unable to move or talk. Treatment with anti-Parkinson's therapy was, according to California authorities, probably life saving, yet the patients continued to be severely handicapped, requiring medication every one to three hours just to be able to eat and drink.

The other meperidine analog with effects similar to heroin is PePAP (1-(2-Phenylethyl)-4-Acetyloxpiperidine). The analgesic potency of PePAP, measured in rodents, is described as from 12 to 72 times the potency of meperidine itself. This analog has so far been discovered in California, although a clandestine laboratory operation in Texas may have been attempting the process but did not succeed.

Proposed Legislation

As mentioned at the outset of this discussion, unless the specific chemical makeup of the substance being abused can be determined by all laboratories regularly engaged in the analysis of substances being abuse, serious problems could go unrecognized for long periods, even years. Those who examine for and record overdose deaths and injuries must likewise be able to determine the abused substance involved. Further, that information must be collected and analyzed at a central point. There is currently only a limited mechanism for this collection (the NIDA DAWN system). When a situation needing attention is discovered, enforcement authorities must be empowered to act quickly. This means that a mechanism must exist by which these "designer drugs" can be controlled under the Controlled Substances Act and appropriate State laws. The Comprehensive Crime Control Act of 1984 does contain such a provision. Under that statute the Administrator of DEA can bring a drug under Schedule I for up to one year, with a six month extension where justified, and on emergency basis, while the normal control mechanism is in progress. The Administrator must decide that such scheduling is necessary to avoid an imminent hazard to public safety. Control of the substances occurs 30 days after public notice. The efficacy of this legislation is yet undetermined, since it was only first used in the Spring of 1985.

On July 16, 1985, a bill was introduced in the U.S. Senate, S. 1437, known as the "Designer Drug Enforcement Act of 1985." This proposed legislation would make it a felony to manufacture or distribute a designer drug for human consumption. The proposed act, which would amend the Controlled Substance Act, reads in part "(31) The term 'designer drug' as used in section 403A means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in Schedule I or II." During a Senate hearing on the legislation by the Subcommittee on Children, Family and Drugs and Alcoholism, July 25, 1985, both the DEA Administrator and the Administrator of the Alcohol, Drug Abuse and Mental Health Administration, supported the bill.

Recommended Actions

(1) That DEA provide assistance to the States in acquiring laboratory standards for use in identifying "designer drugs."

(2) That legislation be enacted requiring the reporting by anyone authorized to sign a death certificate, to an appropriate Federal authority (perhaps the Public Health Service) of deaths caused wholly or in part from the ingestion of any substance.

(3) That legislation be enacted requiring the reporting to an appropriate Federal authority (DEA) by all laboratories performing drug analysis for law enforcement purposes: (a) the total amount of each controlled substance as defined in the Controlled Substances Act, received for analysis each calendar year, and (b) immediate notice of the receipt of samples of any substance suspected of being or found to be a "designer drug" as defined in the proposed bill.

(4) That DEA formulate model "designer drug" legislation for the States as has been done for other aspects of the drug abuse problem.

DRUG POLICY AND ORGANIZED CRIME

By Professor Mark H. Moore

Submitted: January 3, 1986

Dr. Mark H. Moore is Daniel and Guggenheim Professor of Criminal Justice Policy and Management at the John F. Kennedy School of Government, Harvard University, Cambridge, Massachusetts. He is former Special Assistant to the Administrator of the Drug Enforcement Administration.

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Introduction: Drug Policy, Law Enforcement and Organized Crim

Criminal laws prohibiting the production, distribution, ar
possession of narcotics and dangerous drugs are the basis of dı
policy in the United States.[1] These laws target the drugs
that have no recognized legitimate medical uses: heroin,
cocaine, marihuana, and hallucinogens. Enforcement efforts
against these drugs can be uncompromising, for there are no
legitimate uses or users to be protected.

Other drugs, however, pose similar threats to public healt
and welfare, but they do have recognized legitimate uses. The
drugs include morphine, methadone, barbiturates, amphetamines,
and tranquilizers. With respect to these drugs the aim of the
legal regime and associated enforcement strategies is more
complex. It is not simply to eliminate the drugs but to prese
a legitimate sector in which the benefits of these drugs may b
enjoyed, while minimizing illicit use.[2] Towards this end the

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[1] For an account of the historical circumstances surrounding th
development of these laws, see David F. Musto, The American
Disease (New Haven, Conn.: Yale University Press, 1973). For
early critical analysis of these laws, see Alfred Lindesmith,
Addict and the Law (Bloomington, Ind.: Indiana University Pre
1965). More recent discussions of the role of these laws incl
John Kaplan, The Hardest Drug: Heroin and Public Policy
(Chicago: University of Chicago Press, 1983) and Arnold S.
Trebach, The Heroin Solution (New Haven: Yale University Pre
1982).

[2] Domestic Council Drug Abuse Task Force, White Paper on Drug
(Washington, D.C.: GPO, 1975) pp. 58-61. Mark H. Moore,
"Limiting Supplies of Drugs to Illicit Markets," Journal of D
Issues (Spring, 1979). See also "The Comprehensive Drug Abus
Prevention and Control Act of 1970: P.L. 91-513, 84 Stat. 14

laws license a limited number of people to produce, import, sell, distribute and use them.[3] To prevent the drugs from leaking from and to illicit distributors and users, licensees have to secure their inventories, and deal only with other licensees.[4] To make sure that the licensees meet these responsibilities, they must keep records and make them available to investigators for inspection.[5] Failures to meet their responsibilities expose the licensees to both civil and criminal penalties.[6] To make sure that no one can operate outside the boundaries of the legitimate system, the unlicensed production, distribution or use of these legitimate drugs is prohibited.[7]

Drug Laws as a Comprehensive Drug Policy

It has become customary to think of the drug laws as operating principally on the "supply side" of illegal drug markets.[8] For most practical purposes this is appropriate, for these laws are the principal policy instruments directed at the supply of illicit drugs. It is also generally true that principal targets of enforcement are suppliers rather than us However, these laws impose criminal liability on the illicit possession and use of drugs, as well as to illicit production distribution. And indeed, each year more than 500,00 drug us are arrested for possession.[9] Therefore, criminal enforcement is directed at the "demand side" of illicit drug use as well the "supply side." To the extent that these laws attack both supply and the demand for illicit drugs, they can be understo as a comprehensive drug policy, designed to distinguish legitimate and useful drug use from illicit use and to minimi illicit use in the society.

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[3] U.S. Cod, Title 21, Ch. 13, Sub-Chapter I, Part C, Sections 821, 822, 823.

[4] Ibid,. Section 828.

[5] Ibid., Section 827.

[6] Ibid., Part D; Sections 841-849.

[7] Ibid., Part D; Sections 841-842.

[8] Strategy Council on Drug Abuse, Federal Strategy for Drug Abuse Prevention, Nov. 1976. (Washington, D.C.: GPO, 1976) pp. 19-38.

To produce this result, three different mechanisms are relied on. One is the moral force of the law itself. To the extent that individual citizens are guided in their decisions about drug use by the explicit instruction provided by the la or to the extent that the existence of the law mobilizes widespread informal interventions by parents, friends and relatives, the existence of laws that define illicit use may succeed in reducing overall levels of illicit use without any public enforcement activities.[10]

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[9] In 1981, about 590,000 people were arrested for narcotics offenses throughout the U.S. Many of these when people char with possession and use. Edward J. Brown, et al., (Washingt D.C.: GPO, 1984). p. 416.

A second, more widely understood mechanism is general deterrence: the notion that citizens might be discouraged from illicitly selling or using drugs by the fear that they will be arrested and punished.[11] This notion differs from the first in that it depends on citizens' fears of punishment to motivate compliance with the laws, rather than their desires to conform or seek virtue. The more severe the penalties, and the higher the probability of being caught, the more compliance will result.

A third mechanism is incapacitation: the notion that imprisonment may physically prevent drug dealers and users from continuing their activities.[12] This concept differs from the second in that it operates only on those dealers and users who are caught, and only for as long as they remain under legal supervision. If enough drug dealers and drug users are locked up, then the problem of illicit drug dealing and drug use will disappear.

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[10] For a discussion of this mechanism in promoting "voluntary compliance" with the tax laws, see Mark H. Moore, "On the Social Process of Tax-paying" in Section of Taxation of the American Bar Association, Invitational Conference on Income Tax Compliance (American Bar Association: 1983) pp. 441-478.

[11] The classic work on deterrance is Franklin Zimring and Gordon Hawkins, Deterrence: The Legal Threat in Crime Control (Chicago: University of Chicago Press, 1973). For a review of the empirical evidence as to whether deterrance works, see Albert Blumstein et. al., Deterrance and Incapacitation: Report of the NAS Panel on Sentencing (Washington, D.C.: National Academy of Science, 1976).

[12] For a discussion of general incapacitation, see Jacqueline Cohen "The Incapacitative Effect of Imprisonment: A Critical Review of the Literature" in Blumstein et al., Deterrance and Incapacitation. For an analysis of the potential for selective incapcitation, see Peter W. Greenwood (with Alan Abrahamse) Selective Incapacitation (Santa Monica, California: Rand Corporation, 1982).

Limitations of Drug Laws as a Drug Abuse Policy

To describe these mechanisms is to reveal the limitations of the drug laws as a comprehensive drug abuse policy. The problem is not that they are directed only at the "supply side" of illegal drug abuse. Nor is it that they fail to produce reductions in the level of illicit drug use. The problem is that the drug laws are imperfectly effective. They leave behind a residual market, composed of drug dealers and users, who failed to get the message that they should abandon their drug activities. Moreover, while the levels of drug distribution and use that remain are undoubtedly lower than they would be in a world of legalized drugs, the character of the market on both the supply and the demand side are fundamentally altered and generally worsened as a result of their illegality.

On the demand side the users who are not dissuaded from using drugs discover that they confront high prices and low quality in the drugs they buy. In addition, they are exposed to social stigmatization and criminal prosecution. These ircumstances produce disastrous results for their economic tatus, physical health, and social well-being.[13] Of course, o the extent that these consequences are unpleasant to the sers, they provide a continuing incentive for users to abandon their drug use. And, to the extent that the users do so, an important social objective is achieved.[14] But to the extent they do not respond, their lives are made miserable with little corresponding social benefit. The society is left with drug users who are more dependent, dangerous and unhealthy than they would otherwise be.

On the supply side the residual capacity takes the form of an illicit industry.[15] Some of that industry operates outside the boundaries of the United States, and therefore to some degree beyond the reach of its law.[16] Another portion operates under the cover of predominantly legal drug production and distribution - within reach of the law, but a morally and legally ambiguous target. The vast majority of the illicit industry, however, consists of wholly illicit traffickers in the United States.

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[13] For a discussion of how heroin users behave in a world where drugs are more conveniently available, see Horace Freeland Hudson, Heroin Addiction in Britain (N.Y.: Harcourt Brace, 1974) or G.V. Stimson, Heroin and Behavior (New York: John Wiley, 1973).

[14] Mark H. Moore, "Policy Towards Heroin Use in N.Y. City" (Unpublished Ph.D. Dissertation, Harvard University, 1973.) pp. 24-37.

[15] For a general discussion, see Peter Reuter and Mark Kleiman, "Risks and Prices: An Economic Analysis of Drug Enforcement" Unpublished Mimeo (Washington, D.C.: Rand Corporation, 1985).

[16] Peter Reuter, "Eternal Hope: American's Quest for Narcotics Control," Public Interest, No. 79 (Spring 1985).

The Illicit Drug Industry: A Problem for Drug and Organized Crime Policy

The existence of this illicit industry creates two different kinds of problems.[17] Viewed from the vantage point of drug abuse policy, the principal problem created by the illicit industry is that it continues to supply drugs to illicit markets. To the extent that this continues, old drug users may continue their harmful activities, and new users may be recruited into dangerous patterns of drug use. Thus, to achieve the objectives of drug policy, the society must find ways to constrict the supply capacities of the illicit industry.

Viewed from the vantage point of those concerned with the control of organized crime, the existence of the illicit industry creates a different kind of problem. To a degree, the illicit drug industry engages in the sort of activities that make organized crime a specially important social problem. Not only do the illegal dealers frustrate the aims of drug policy by continuing to supply drugs, but they grow rich in the process and taunt the society with their financial success. Moreover, the industry seems to spawn violence. Sometimes the violence spills out into the general population. But even when the violence remains confined to participants in the industry, its sheer viciousness creates a general sense of lawlessness and brutality that is threatening to the community. The illicit dealers also seem to become heavily involved in corrupting government agencies. Such activities undermine community security, and the integrity of its basic institutions. Finally, the illicit drug industry may gives birth to unusually large and powerful criminal organizations, or nourish those that already exist. From the vantage point of organized crime policy, then, the drug laws create a major problem to be solved.[18]

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[17] I am indebted to Mark Kleiman for emphasizing and clarifying this point. See Mark A. R. Kleiman, "Allocating Federal Drug Enforcement Resources: The Case of Marijuana." Unpublished Ph.D. Dissertation, Harvard University, 1985.

Drug Policy as a Portfolio of Policy Instruments

To deal with these side effects and residual problems, the drug laws must be complemented by other policy instruments. To deal with the limitations of drug laws in suppressing the demand for drugs, a comprehensive drug policy necessarily includes drug treatment and preventive education programs. Treatment programs must be provided to help users make the transition to non-use and to save lives that would otherwise be lost. Preventive education programs must be operated to give more detailed explanations to individuals of why illicit drug use is undesireable. Indeed, given the focus of drug enforcement on the supply side of the market and the obvious limitations of the drug laws in discouraging use among those who are already dependent, it is generally appropriate to think of drug treatment and education programs as the principal instruments focused on the "demand side" of the illicit drug markets.

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[18] Again, I am indebted to Mark Kleiman for these ideas.

To deal with the limitations of the laws in suppressing the supply of illicit drugs and preventing the appearance of organized criminal activity, traditional enforcement methods must be supplemented by some special policy instruments. Diplomacy and foreign aid must be joined to enforcement and regulation to reach the pieces of the illicit supply system that operate outside the United States. An effective regulatory enforcement system must be created to prevent the diversion of narcotics and dangerous drugs from legitimate to illicit markets in the United States. And perhaps some special enforcement strategies that are effective in constricting the capacity of the supply system to move drugs to illicit markets or in dispersing well organized drug traffickers must be designed and used.

The Objectives of the Paper

The purpose of this paper is not to design an effective overall drug policy. Nor is it to consider the wisdom of relying on criminal laws against drug distribution and use to the degree we do now. My opinion is that our current drug policy is a wise one, and that the balance of risks favors the continuation of criminal laws directed against the distribution and use of narcotics and dangerous drugs.

The aim of this paper is to take the existence of the current drug laws and policies as a starting point and to design a strategy to reduce supply consistent with the aims of our current drugs abuse policy. In designing such a policy, special attention will be given to the relationship between the strategy to reduce supply that is necessary to achieve the goals of our current drug abuse policy and organized crime policy.

As we have seen, there is some tension between these policies. Making drug distribution illegal establishes fertile soil from which existing organized crime groups might take sustenance or new groups might arise. Thus, the continuing prohibitions of drug distribution may exacerbate the organized crime problem. On the other hand, to the extent that organized crime groups are now active in producing or distributing drugs, and to the extent that our organized crime policy makes available resources and techniques that are effective in immobilizing such groups, organized crime policy may make an important contribution to drug policy.

In balancing these concerns the dominant emphasis will be given to designing a supply reduction strategy that can achieve the purpose of drug abuse policy. This perspective will be adopted not because it is obvious that an effective drug control policy is more important than an effective organized crime policy, but simply because, if it were true that it was more important to combat organized crime than to keep drugs from illicit users, the simple solution would be to legalize the drugs so that no illegal firms could arise. Since the society does not choose this option, it must be that we are willing to pay a price in terms of the objectives of organized crime policy to achieve the objectives of drug control policy. The only interesting questions, then, are how to minimize that price, and how best to deploy the special resources and capabilities or organized crime control policies to further the objectives of drug policy. That is what we will try to discover.

THE ANALYTIC FRAMEWORK

As we have seen, the character of the illicit drug industry is important to the ultimate success of both drug abuse policy, and organized crime control policy. To define objectives, set reasonable expectations for success, and guide strategic choices in targeting supply reduction efforts, an analysis of the illicit drug industry is essential.

The Crucial Distinction Between the "Industry" and the "Firms"

In carrying out this analysis, it is important to distinguish the concept of the industry from the concept of individual firms within the industry. The industry includes everyone who is engaged in producing, importing, or distributing narcotics and dangerous drugs to illicit markets in the United States. A firm within that industry is nothing more than a collection of assets whose specific uses are determined by the authoritative decisions of an identifiable organizational unit.

Obviously, the firms that make up the industry could take a variety of forms. They could represent different production capacities, such as a boat, a person who knows the chemistry to produce psychoactive drugs, or $50,000 in cash. They could be involved in all aspects of the deal from financing through production, transportation, and distribution, or they could specialize in only one of these functions. For any given function the firm may be more or less dominant in more or less local geographic markets. They could consist of a single entrepreneur linked to others only through the fragile ties of economic interest, or they could include many people linked to one another by family or cultural ties. They could be relative newcomers or have a long history in the industry. They could enter the industry with hopes for a single, big score, or they could plan to become or remain a permanent fixture.

Often, the distinction between the industry and the firms that comprise it is blurred, and the industry is viewed as a single firm. This casual assumption is justified on one of two different grounds. One is that the observed performance of the illicit market is so impressive in terms of its operations and adaptability that it is hard to believe that it is not guided by a single intelligence. Nothing short of a single coherent enterprise could accomplish the enormously complicated tasks of collecting raw materials, processing them, and transporting the finished product through the mine fields created by enforcement agencies. Nor could anything other than an enterprise guided by a single intelligence adapt successfully to the frequent changes in supply reduction strategies.

The problem with this argument is that legitimate industries accomplish similar feats of production, distribution and adaptation all the time without a single intelligence guiding them. The reason legitimate industries are successful is that there are many guiding intelligences, but none predominant. The aggregate result of the individual choices made by individual economic actors may look organized in the sense that the industry gradually moves from places where enforcement has become heavy to areas where it is weaker, or it shifts from one drug to another depending on consumer demand. But this orderly response need not be the result of a wise choice by a single, powerful firm. It could be the natural result of the firms in the heavily enforced areas being wiped out, and the firms in the less heavily enforced areas growing to meet the demand. In short, the adaptations are made at the expense of individual firms, not under their control - nor, necessarily, to their advantage.

The second line of argument supporting the notion that the industry should be viewed as a single firm is somewhat more sophisticated. It is based on the hypothesis that some illicit firms will develop crucial specialized capabilities, and that these will give the firm important advantages in producing and distributing illegal drugs, or effective control over others who do. These special capabilities could be access to capital, connections with foreign sources of raw materials, knowledge of how to produce the drugs, a special tie to corrupt officials, or a general capacity for disciplined violence that could be brought to bear on anyone who produced or distributed drugs without their permission. This argument depends essentially on the idea that there are some natural economies of scale in the illicit industry, and that these will tend to produce a concentrated industry. This is a more powerful kind of argument than the first, but it is only an assertion. It needs to be examined with both logic and evidence.

The Analysis of Industrial Organization

The form of analysis that is appropriate is an analysis of industrial organization.[19] An analysis of this kind rigorously maintains the distinction between the industry and the firms that comprise it. Indeed, the principal objective of an analysis of industrial organization is to understand the relationships among the structure of the industry, the conduct of the firms within the industry, and the long run performance of the industry.

The Definition of Industry Structure. The concept of industry "structure" explicitly captures the distinction between the industry and the firms that comprise it. It focuses attention on how the activities of the overall industry are divided among different organizational units called firms. One key concern in examining structure is the degree of concentration in the industry. The fewer the firms, the more concentrated the industry.[20] A second is the extent of horizontal and vertical integration. Integration refers to the proportion of activities essential to creating a product and delivering it to a market that are contained within a single firm. Vertical integration is measured by the extent to which a firm includes all the steps from extraction of raw materials to final sales to ordinary consumers. Horizontal integration is measured by the proportion of a given step in the production and distribution of a product that is controlled by a single firm.[21]

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[19] Richard Caves, American Industry: Structure; Conduct and Performance (Englewood Cliffs, N.J.: Prentice-Hall, 1977).

[20] Ibid, p. 8-9.

The Definition of Industry Conduct. "Conduct" refers to the distinctive ways that the firms within the industry go about their business.[22] Specific questions might focus on the production technologies now commonly utilized, major factors influencing costs within the industry, levels of investment in research and development, the rate at which new products are introduced, or the geographic organization of the industry's markets. Conduct might also be concerned with institutional relationships in the industry; e.g., the competitive strategies being pursued by firms within the industry, the relationships with governmental regulators, and even patters of collective bargaining and labor relations.

The Definition of Industry Performance. "Performance" focuses on the question of how successful the industry is over the long run in delivering a product at low cost, expanding the market, and adapting to changing circumstances.[23] Performance is ultimately what an industry analyst is trying to understand. Indeed, the observations about structure and conduct are made principally to explain and predict performance. The more decentralized and competitive the industry, and the lower the costs of bringing new products or new production technologies on line, the more adaptable and dynamic the industry. The larger the economies of scale in operating, marketing, or bringing new products or production technologies on line, the more concentrated the industry is likely to be. The more concentrated the industry, the higher the prices and the slower the rate of innovation. Propositions such as these link observations of structure and conduct to explanations and predictions of performance.

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[21] Ibid, p. 42.

[22] Ibid, pp. 50-51.

[23] Ibid, p. 66.

Objectives in Attacking the Illicit Drug Industry

To a great extent this framework of analysis can be carried over and used in examining the character of the illicit drug industry. But some crucial differences are worth noting. By far the most important is that the implicit evaluative perspective reverses when we are analyzing illicit industries.

An Evaluative Perspective. In standard industry analyses one generally hopes for high performance from the industry. The more successful it is in delivering products at low prices, expanding its market to new areas, adapting to changing economic circumstances, and maintaining high rates of innovation, the better the result for the society.

In the case of the illicit drug industry, of course, the society's hopes run in the opposite direction. High performance from the illicit drug industry means that it adapts well to government efforts to eliminate it and continues to supply drugs at low cost to illicit markets. Over the long run, this means higher levels of illicit drug use. In analyzing the illicit drug market, then, what one hopes for is a failing industry: one that cannot overcome the hurdles set by the government in trying to get its products to market. These hopes are generally frustrated by the sheer inventiveness and adaptability of illicit entrepreneurs in pursuit of money. Nonetheless, one keeps hoping that this industry will stumble rather than flourish. Indeed, making it fail is an explicit purpose of public policy.

A second important difference is that in the analysis of the illegal drug industry, the structure and conduct of the industry have an elevated importance. As noted above, in traditional analyses of industrial organization, structure and conduct have importance primarily as factors that influence the performance of the industry. In the analysis of the illegal drug industry, they retain that importance: to the extent that structure and conduct enhance or hinder the industry's long-run performance in delivering drugs to illicit markets at low prices, they are a source of interest, and a possible target of enforcement actions.

What increases the importance of structure and conduct in the analysis of illegal drug markets, however, is that they are valued by the society independently of their impact on the performance of the industry. Crucial questions about the conduct of the firms within the illegal drug industry include the extent to which they rely on violence to maintain internal discipline or eliminate competition, and the extent to which they rely on corruption to ward off the threat of enforcement. To the extent that they do rely on violence and corruption as essential elements of their business, their conduct has importance to the society quite apart from how these practices affect their ability to supply drugs.

Similarly, the society seems to be deeply concerned about the structure of the illicit drug industry. Specifically, the society seems to regard the problem as worse if the industry is highly concentrated and composed of a few large, durable firms than if it were less concentrated and populated by smaller and more transient firms. No doubt, this view derives primarily from a dominant concern about the performance of the industry, and an assumption that an illicit industry, composed of a few large and durable firms, would be more effective over the long run in supplying drugs at low cost to consumers. It is important to keep in mind, however, that a highly concentrated industry might perform less well over the long run in delivering drugs to illicit markets than a more atomistic market. Economic theory tells us that prices would be higher in a concentrated market, and it is quite possible that innovativeness and adaptability to attacks would be less.[24] The firms might represent more formidable enforcement targets, but the result of dismantling them might be larger and more durable than would be true in an atomistic market.

Even if this were true, however, it seems likely that the society would still regard an illicit industry, composed of a few large, durable firms, as worse than one composed of many small transient firms. The reason is that large, durable firms constitute a social problem independent of their ability to supply drugs. Large, durable criminal organizations can bring much more powerful pressures to bear on their employees, competitors, the government officials who are pledged to attack them, and even the communities in which they operate than could smaller or more transient firms. It is partly that the large, durable firms become very wealthy; partly that they can maintain truly frightening capacities for disciplined violence; but perhaps most fundamentally that they will be around for a long time and therefore able to reward cooperation and punish opposition that makes them so powerful.

Thus, the concepts of structure, conduct and performance help to clarify the society's objectives in dealing with the illicit drug industry. The concerns of drug abuse policy are captured principally by questions about the performance of the industry, since it is the long run performance of the industry that will decisively shape overall levels of drug abuse. The concerns of organized crime policy are captured principally by questions about conduct and structure. The concept of conduct captures the concern about levels of violence and corruption associated with an illegal industry. The concept of structure captures the special concerns that are raised for organized crime policy by the existence of very large, durable organizations,whose wealth, disciplined use of violence, and long memories make them especially powerful. A successful supply reduction strategy, then, would leave an illicit drug industry, which is high cost, ineffective in supplying drugs to illicit markets, not very adaptable, reluctant to rely on bribery and violence, and composed of small, transient firms.

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[24] Ibid, pp. 66-78.

Competition among Objectives. We are accustomed to thinking that any supply reduction strategy will move us towards improved performance on all of these objectives, and therefore there are no trade-offs between the objectives of drug abuse policy and organized crime control policy. We have already seen that there is a certain tension between the aims of these two different policies insofar as the criminal laws against drug distribution and use create the basic conditions under which an illicit industry might arise. But now it is possible to see a new tension as well, one that is not only between drug abuse policy and organized crime control objectives, but also between different objectives of organized crime control policy.

Ironically, a supply reduction strategy that increased the degree of concentration in the illicit industry might achieve some important objectives of a supply reduction strategy. Economic theory predicts, for example, that the actual supply of drugs will be less in a concentrated industry than in a more decentralized competitive industry. It is also likely that the violence would be less, or at least more disciplined and focused on those who were actually involved in the industry in a tightly organized, concentrated industry.[25] Thus, a supply reduction strategy might succeed in reducing the overall performance of the industry and even changing its conduct to reliance on threats and bribery rather than overt violence, but do so only at the price of increasing the size, power, and durability of criminal organizations. Whether this would be preferred to a strategy that reduced the concentration in the industry, but enhanced its performance and shifted its conduct to more random patterns of violence depends on how the society values these competing objectives, and how much improved performance and violence it would have to accept as the price of reduced concentration. That would be a difficult choice.

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[25] Thomas C. Schelling, "Economics and Criminal Enterprise" Public Interest No. 7 (Spring, 1967).

The Definition of Improvements. At any rate, the directions in which improvement lie, are clear, and so are the objectives of a supply reduction strategy. The first and most important objective is to frustrate the performance of the illicit industry - to constrict its capacity to supply drugs to illicit markets. The second is to shape the conduct of the residual industry so that is is less violent and less corrupting. The third is to disperse the industry so that the firms that comprise it are small and transient rather than large and durable. How are one can go in achieving these objectives, and how sharp the trade-offs among them can only be answered by a close look at the factors that shape the structure, conduct and performance of the industry.

MAJOR FACTORS SHAPING THE INDUSTRY

As in any industry performance is determined at least partly by engineering or mechanical factors: e.g., the physical requirements of production and distribution. To get drugs to illegal markets, firms must have access to raw materials, have the knowledge and the equipment required to transform the raw materials into finished products, be able to maintain and protect inventories, and be able to transport finished products to individual markets.

In addition, the performance of the industry will be shaped
economic factors: i.e., the perceptions of opportunities and
ks. Those who make investments of the time and energy in
ducing or diverting raw materials, in learning the techniques
acquiring the equipment for producing illegal drugs, in
oring and transporting the drugs, and so on, must have some
surance that they will make money from their investments. They
st have some capital to given them the time and the capacity to
range the deals that will ultimately produce satisfactory
turns. They must also have a certain tolerance for risk - not
ly the risk that they might be imprisoned for their activities,
t also that they might take economic losses as a result of
ccessful enforcement actions against them, betrayals by their
ssociates, or more common economic disasters, such as
ipwrecks, plane crashes, spoiled production runs, or sudden
hanges in exchange rates. Unless there is a reasonable chance
their minds that they can make enough money from illicit drug
eals to compensate them for their time and their risks, the
eals will not be made.

A third factor influencing performance is the structure of
riminal liability that surrounds the industry, for it is the
aws and the way that they are enforced that determines many of
he opportunities and risks facing illicit drug dealers. A
imple way to think about how this factor operates is to think of
he criminal laws and the specific methods of enforcement as a

kind of tax confronting the illegal dealers. To maximize their return, they seek to avoid as much of the tax as possible. They do this by avoiding activities that are heavily taxed, by taking advantage of loopholes in the tax laws or weakness in enforcement, by concealing as much of their operation from the tax collectors as possible, or by corrupting the tax collectors. Such activities affect both the scale and the character of the illicit industry.

The Apparent Influence of Geography

Geography looks like a factor that plays an important role in determining the conduct and performance of the illicit industry.[26] Indeed, much of our thinking about supply reduction strategies is guided by the notion that there are important "source countries" that become the targets of diplomatic and enforcement initiatives. Thus, for many years, Turkey and France were regarded as the principal sources of heroin, although they have now been replaced by Mexico and Southeast Asia.[27] Similarly, Colombia is now considered the principal source of cocaine, and Jamaica a primary source of marijuana.[28]

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[26] Selected Committee on Narcotics Abuse and Control, Annual Report for the Year 1984 (Washington, D.C.: GPO, 1985)

[27] Ibid. pp. 11-13.

[28] Ibid. pp. 21, 26.

The reason that geography seems important is that different countries represent different clusters of conditions that give them a comparative advantage as a supplier of drugs to illicit markets in the United States. Sometimes a country becomes an important source country because of agricultural conditions that make it an especially attractive (perhaps even unique) place in which to produce raw materials. Thus, for a while, we imagine that opium poppies could be successfully grown in only a few countries in the world, and we now hope this is true of coca leaves. In short, a country may become an importance source of supply due to a physical advantage.

Other times it seems that a country has become a major source as the result of a long tradition of producing the relevant raw materials, or a large domestic industry that is based on them. In effect, the country has a unique institutional and economic advantage because it has a large infrastructure already invested in the cultivation of the opium, coca leaves, or marijuana.

Still other times, it seems that the country's advantage comes from week laws governing the legitimate or illicit drug industries, or weak governmental commitment and capacity for controlling the illicit drug industry. Just as Las Vegas can become the center of gambling simply by establishing a legal regime that tolerates it, Jamaica may become a principal source of marijuana by being particularly lax with respect to the suppression of illicit cultivation.

Thus, while geography looks like it plays an important independent role in determining the character of the illicit drug markets, this apparent influence actually derives from the more basic causes already noted: the physical relations governing production and distribution, the economic/institutional relations that give economic actors reasonable assurances that investments in particular activities will be rewarded, and the legal regime that has an independent effect on the risks and opportunities confronting illicit dealers. Thus, geography may drop out of any close analysis of the factors shaping the performance of the illicit supply system, and be replaced by a separate consideration of how certain countries seem to represent unusually favorably combinations of the underlying causal factors, and which ones seem particularly important.

The Irrelevance of Physical Requirements

While it is tempting to search for the explanation of the structure, conduct and performance of the illicit industry in the physical mechanics of producing and distributing drugs, there is very little in these relationships that is unusual, or that could constrain or shape the performance of the industry. Many of the raw materials necessary to produce narcotics and dangerous drugs are widely available. This is true primarily because they have many legitimate uses, but also simply because they can be grown or artificially produced in many different locations. Of course, and occasional local shortage in basic raw materials may sometime appear. But, given the alternative sources of supply, it is hard to imagine that the shortage would last. Indeed, it is hard to imagine long run shortages in the availability of opium poppies, marijuana, coca leaves, or even chemicals used to produced synthetic opiates, hallucinogens, and other psychoactive drugs.

It is equally difficult to imagine that either the knowledge or the equipment necessary for manufacturing illicit drugs could be in long run short supply. The chemical structure of the illicit drugs are well known. Indeed, they are so well known that illicit labs are now experimenting with small manipulations of the chemical structure of existing drugs to determine if the newly created drugs will produce similar or superior psychoactive effects.[29] These so-called "designer drugs" challenge the legal regime regulating drugs because they may be legal to produce and distribute until enough experience has accumulated to declare them a significant abuse threat.

The equipment required for the production of the drugs is also commonplace. Indeed, heroin "labs" in Mexico often consisted of little more than wash-tubs and rubber hoses. And the drugs can be made in many different quantities with few implications for the costs of production. So, there seems to be little in the technology of production that would have a decisive impact on the structure, conduct or performance of the industry.

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[29] Personal Communication with Mark A. R. Kleiman.

The Impact of Illicitness on Industry Conduct

My strong conviction is that the dominant factor shaping the illicit drug industry is the simple fact that it is illicit. This fact has broad and significant implications for its structure, conduct and performance. The immediate consequences of illicitness register in the conduct of the illicit firms, but the changes in conduct have important implications for structure and performance.[30]

The Risk of Arrest. The most obvious consequence of illictness is that those who produce, import, distribute or use drugs illegally are exposed to the threat of arrest, prosecution and imprisonment. Moreover, in some countries, they are threatened by the seizure of any property or assets used in their illegal drug dealing - a threat whose significance may dwarf not only any fine they may receive, but also some jail terms.[31]

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[30] For a lengthier exposition of these points, see Mark H. Moore, *Buy and Bust: The Effective Regulation of an Illicit Market in Heroin* (Lexington, Mass: D.C. Health & Co., 1977).

[31] Mark A. R. Kleiman, "Allocating Federal Drug Enforcement Resources." Ch. 5, p. 2.

The obvious effect of threatening illicit producers, distributors and users with jail is that the dealers who remain in the business will take steps to reduce their risks, or to compensate themselves for the risks of being is the business.[32] The principal devices for reducing risks are to keep operations secret so that enforcement agencies cannot discover them, or to corrupt the agencies so that even if their operations are discovered, they are not punished.[33] The principal devices used to keep their operations secret are to deal with a small number of people, to conceal the traces of their activities, and to screen and discipline their employees, associates and customers to make sure they are not undercover agents, and do not become police informants.[34] The principal ways of corrupting enforcement agencies are to offer money to be allowed to continue to operate, and to inform on their competitors and associates so that the police can make arrests without harming their operations.

Such efforts can only be partially effective in eliminating the risk of punishment. To deal in large quantities of drugs and make money from the enterprise, one must inevitably deal with a large number of people, only some of whom are trusted and effectively disciplined. Thus, the risk of informants and undercover agents among one's employees, associates or customers is always present. Similarly, drug dealing always involves leaving traces of one's activities that cannot be entirely concealed: physical inventories of raw materials or drugs, records of financial transactions, even records of phone calls among the conspirators. These, too, are vulnerable to discovery by enforcement agencies. Also, there are so many agencies and agents involved in drug enforcement activities that one can never be sure whether all those who pose a threat have been corrupted. Since the risk can never be quite eliminated, the dealer's response is to demand additional compensation for the risks in trafficking drugs. He demands higher prices for drugs than he would if there was no risk of going to jail.

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[32] Mark H. Moore, Buy and Bust pp. 5-47.

[33] Mark H. Moore, Buy and Bust pp. 15-23, pp. 30-38.

[34] Mark H. Moore, Buy and Bust Ibid.

The Risk of Rip-Offs. A less obvious but by no means less important consequences of the illicit status of drug production, importation and distribution is that illegal dealers are confronted by threats from other criminals as well as by enforcement agencies. Indeed, associates, competitors and ordinary armed robbers probably create greater risks for illicit drug dealers than enforcement agencies. Partly this is because dealers are very tempting targets. They are likely to have large amounts of cash, or large quantities of drugs that can be converted to cash. Also, they are unlikely to turn to enforcement agencies to help protect their operations. They have to supply protection against armed attack or stealing. Those in the criminal milieu may know more than enforcement agencies about who is "holding" or currently doing business, and these other criminals may be less constrained by the niceties of due process than the enforcement agencies. Thus, other criminals may be more strongly motivated an better positioned to attack illegal drug dealers than the enforcement agencies, and therefore pose a graver threat to the illicit dealers.

The implications of this fact are that the dealers must make special provisions to protect themselves from this threat.[35] To a degree, the same methods of secrecy and discipline may be as helpful against other crooks as against the police. But it seems likely that the threat from other crooks is more apt to be met by capacities for violence. In general, if an armed confrontation between the dealers and enforcement agencies occurs, the dealers know they will lose. They may win a local fire-fight, but there is no way they can compete over the long run with enforcement agencies in violent confrontations. Consequently, they rely most heavily on secrecy and corruption to deal with the threat of enforcement.

With other criminals, however, the balance of armed power is less clear. Thus, it is tempting to build capacities for violence to protect oneself and one's business from "take-off" artists, and to establish credible threats effective against betrayals by associates. This capacity for violence can also be used externally to drive out competitors. But the vulnerability to other criminals associated with illicitness provides the most immediate and compelling justification for developing a capacity for violence, as well as for secrecy and corruption. The existence of these capacities for violence among dealers and those who would steal from them produces the bulk of the violence within the illegal drug industry.

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[35] Thomas C. Schelling, "Economics and Criminal Enterprise" p. 66.

Thus, the conduct of the firms within the illicit industry is profoundly influenced by the fact of their illicitness. They are forced to maintain secrecy, and to prevent the infiltration of police agents. They must develop capacities to bribe, suborn, or mislead government agents. Also they must develop capacities for violence to enforce contracts with associates, protect their property from armed robbers, and to discipline employees. Finally, because the risks of arrest or rip-offs cannot ever wholly be eliminated, they must price their products not only to cover costs, but also to compensate themselves for the risk of arrest or financial loss they are taking by engaging in such a risky business. These effects on the conduct of firms have implications for structure and performance.

The Impact of Illicitness on Structure

The consequences of illicit status for the structure of the illicit industry are hard to estimate, for they will be determined by a balance of conflicting influences. On one hand, the desire to prevent the police and other criminals from learning about their operation will motivate illicit entrepreneurs to keep their small firms, transient, and neither vertically nor horizontally integrated.

The Virtues of Small Firms and Decentralization. Smallness has the virtues of involving only a small number of people and a small number of transactions.[36] This implies both that the intrinsic vulnerability of the operations is less, and that the contributions of any special efforts to discipline or secure the operation will go further because there are fewer associates, employees or transactions over which to spread these efforts.

Transience has similar advantages to smallness. If the problems for illicit dealers is to avoid others knowing they are in business, they can accomplish this by getting into the business and out of it before anyone knows who they are. Indeed, from the perspective of avoiding detection, the best operation is one that is both small and transient. But that firm is not worth disrupting, also, for it could never amount to much in terms of its ability to supply drugs, its contribution to violence and corruption, or to become a powerful institution to the community.

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[36] Moore, Buy and Bust pp. 17-19.

Vertical and horizontal disintegration also have important advantages in avoiding detection. A vertically integrated firm would require some system of information-gathering and record-keeping to exploit the advantages of explicit coordination across the different phases of the operation. But these records would become an important source of evidence against the dealers. Similarly, almost by definition, vertically integrated firm would be large and involve many transactions, and each element of the firm would know what other elements were doing. Thus, a vertically integrated firm would present more possible points of penetration and would be much more vulnerable to any given penetration, than a firm organized as a set of largely separate cells that operated relatively autonomously.[37]

Similarly, a horizontally integrated firm would also have t be large and would have to be in contact with all firms engaged in the activities at other stages of the production process. Thus, a horizontally integrated firm in the business of off-loading mother ships would come to know the principal importing firms that arranged for the mother ships to appear of the coast, and the principal firms engaged in storage and distribution. This would make such a firm vulnerable to betray by the others, compared with a firm that handled less of the overall off-loading business.

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[37] This principle is well established in terrorist and intellige organizations.

Thus, to escape detection, firms in the illicit drug industry would choose to be small, transient and disintegrated. This, in turn, would lead to a highly fragmented - even atomistic - structure in the industry.

The Virtues of Scale and Concentration. On the other hand, it is possible there are some economies of scale in the production and distribution of illicit drugs, or some opportunities for controlling competition that would lead to relatively large, durable firms, and a relatively high degree of concentration in the industry. Ironically, the principal potential for economies of scale do not seem to lie in the areas of production or marketing. Instead they lie in the development of capacities for corruption and violence that will give some firms special opportunities to operate safely and efficiently in the dangerous illicit markets.

The capacity for disciplined, irresistible violence may be a particularly important factor of production in illicit supply systems, and may be an area where there are natural economies of scale.[38] As we have seen, a capacity for violence is terribly important in disciplining employees to keep them from becoming informants. It is also important in being able to enforce contracts with business associates and in protecting life and property from other criminals in a world where one cannot rely on the ordinary courts and police to perform this function. Moreover, once developed for these purposes, the capacity for violence can become important in eliminating competition, or forcing it to be small and transient rather than large and durable. For all these reasons, a firm had a substantial capacity for violence would have an obvious competitive advantage in supply drugs to illicit markets.

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[38] Peter Reuter, Disorganized Crime: The Economics of the Visible Hand (Cambridge: MIT Press, 1983).

To argue that violent firms would have a competitive advantage is not quite the same as saying that the obvious value of a capacity for violence will tend to produce large, durable firms, and a concentrated structure in the industry. That argument rests on an additional assertion that there are economies of scale in the development of this special capacity for violence. This assertion, in turn, rests on the ideal that a useful capacity for violence consists not in the production of actual violence, but instead in a reputation for irresistible violence that can overwhelm (in force, viciousness, sustainability or all three) any degree of violence that another illegal entrepreneur can imagine mounting.[39] This is important, for it is quite obvious that real violence can be produced quite easily and inexpensively. What is valuable violence, however, is violence that need not be used but will still intimidate and discourage others because it is there to be used and cannot be successfully resisted. To have this capacity, a firm must have available not only a large quantity of violence and demonstrate its willingness to use it, but also be a sufficiently permanent and relentless institution so that the possibility of an opponent challenging it and escaping without retaliation seems remote.

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[39] Ibid.

This capacity seems to have some natural monopolistic features. One can easily imagine how a single organization could gradually corner the market for irresistible violence and create a fairly impregnable local monopoly. One can less easily but still plausibly imagine a small number of firms with such capabilities co-existing in an uneasy truce, and ignoring a certain number of violations of their tacit understandings, as well as a small amount of minor competition from transient outsiders. What is hard to imagine as a stable equilibrium is a world in which there are large numbers of closely matched firms vying for the position of a recognized dominant capacity for violence. In that world the factor of production that has value - namely, a dominating capacity for violence that is sufficient to discipline employees, enforce contracts, and protect reliably against take-offs - is not available to any firm. Each firm is therefore vulnerable to all threats that a solid reputation for irresistible violence would guard against.

If the reputation for irresistible violence is valuable, it takes substantial investment to build the capabilities, and if it only has value when it is greater than any other competing firm's, the importance of this factor of production will tend to produce high degrees of concentration in the industry. This will lead to the development of a few large, durable firms in any local market. This is true at least in part because this reputation for violence can substitute for a small scale in preventing the detection of the operation. If employees, associates, competitors and customers are all afraid to give information about the operations of a firm to the police or other criminals, then it can operate at any given scale with less risk than another firm that is similar in all respects other than its capacity and reputation for violence.

The capacity for corrupting government officials may also be an important factor of production and distribution. This might also be an important factor of production and distribution that might also tend to create larger more durable firms and higher degrees of concentration than one might hypothesize, if one were thinking only of how the illicit firms might escape detection. The easiest way to think about the problem of corruption is to imagine that the various government officials and agencies, responsible for enforcing laws against illegal production and distribution, have a _de facto_ power to grant a license to illegal entrepreneurs to operate legally - or at least with no treat from them. Obviously, the value of this license to the illicit dealers depends on the extent to which a given official or agency monopolizes the legal threat to them. If a given official or agency is the only official threat against an illicit dealer, the value of his protection will obviously be higher than if the official threat against an illicit dealer, the value of his protection will obviously be higher than if the official or agent is only one of many potential threats against the dealer.

Thus, the question of whether corruption will tend to concentrate in the industry depends crucially on the organization of the enforcement agencies. If the enforcement agencies were organized in a single agency, and if the hierarchical control within the agencies was very powerful, and if the illicit firm could corrupt that agency, it would be able to gain and hold a monopoly in the area principally by using the enforcement agency to help it eliminate competition, while keeping it safe. If, on the other hand, the enforcement agencies had fragmented jurisdictions, and quite imperfect control over their agents, then they might be more vulnerable to some degree of corruption, but the significance of the corruption would be much less. Essentially, the enforcement agency could not sell an exclusive right to operate safely. It could only sell little pieces of insurance against threats from specific agents or agencies. Even this would produce some higher degree of concentration in the industry than if corruption were not part of the operating strategies of the illicit firms, since it would establish some barriers to entry and protect the position of some firms. But i would by no means guarantee a monopoly.

The Net Result of Conflicting Pressures. Therefore, there are pressures that push the drug industry towards small firms an an atomistic structure, and others that are consistent with the development of local monopolies and relatively concentrated structures. My strong hunch is that the net result of this will be to produce an illicit industry that includes a heterogeneous distribution of firms. There will be a few firms that are in strong position to exploit the economies of scale that come from a reputation for trustworthiness, and for irresistible violence in the case of betrayal. Such firms may come to account for a relatively large fraction of the drugs reaching illicit markets, but they will be a small fraction of the total number of firms operating. This will be true partly because it is unlikely that these firms will become either horizontally or vertically integrated. The risks of long chains of command in the case of vertical integration, or a wide network of contacts in the case of horizontal integration are apt to be much greater than the potential benefits. It is also true because these firms will no be able to prevent (and will not find it worth preventing) occasional competition from transient or small operations which have their own sources of supply, and their own local markets.

Therefore, there will be a great many firms of different sizes in the industry.

If one were thinking about analogies from legitimate industries, my hunch is that the best analogy might be something like the real estate industry, rather than the auto industry or even the fast-food industry. Many developers put together large, uncertain deals, rather than producing or distribution a product. Moreover, the deals are likely to involve several different partners, and the partnerships and roles may change from deal to deal. Those in the industry who have a reputation for trustworthiness, "deep-pockets," strong political connections, and effective lawyers are likely to account for a large fraction of the total dollar value of the deals made. But there will be a great many others in the industry who do smaller deals.

The Impact of Illictness on Performance

Because illicitness affects conduct and structure, it also has an enormously importantly impact on industry performance. The crucial result is that drug prices are much higher than they otherwise would be. This is partly because the defensive strategies mounted by dealers against enforcement agencies and other criminals translate into higher operating costs per unit of drug delivered, and partly because dealers demand additional compensation for their risks. This is shown by the fact that the price of drugs in illicit markets is higher than the price of equivalent drugs in legal markets by factors of 20 or 30.[40]

Almost as important is that the drugs are less conveniently available than they otherwise would be. Dealers have an incentive to conceal their activities rather than advertise them Growth in the market tends to happen within intimate networks of friends, rather than through public advertising and widespread availability.[41] In all likelihood, these are slower and less effective methods of market development than the same mechanisms joined with a legitimate distribution system.[42]

We can combine the effect on price and the effect on availability in a single concept called the "effective price" of drugs in illicit markets.[43] That would include not only the monetary cost, but also the amount of time a customer would have to spend looking for the drug, and the chance that he might fail to find the drug, or be cheated by an unscrupulous dealer. In these terms, illicitness results in much higher effective prices for illicit drugs than if they were legal. Note that this is probably true even if publicly supported enforcement activities were relatively ineffective. For, even if the threat from the enforcement agencies were removed, the threat from other criminals would remain, and that by itself would be enough by itself to increase dramatically the effective prices of illicit drugs. So illictness has a profound impact on the performance of the industry.

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[40] Reuter, "Risks and Prices."

[41] Leon Gibson Hunt and Carl D. Chambers, The Heroin Epidemics (N York: Wiley and Sons, 1976).

[42] Mark H. Moore, "Policy Towards Heroin Use in New York City," P 614-631.

[43] Mark H. Moore, "Discrimination on the Effective Price of Heroi American Economic Review, Vol. LXIII, No. 2. (May, 1973).

The fact that the price of drugs is increased by the illicit status of the industry is evaluated in different ways from different vantage points. Viewed from the perspective of drug abuse policy, this is desireable because it will reduce overall levels of drug use in the population by discouraging new users from continuing their drug use, and motivating older users to seek treatment and abandon their use. Viewed from the perspective of organized crime policy, the increased prices mean a larger flow of revenues to illicit dealers and criminal organizations. This is damaging to the objectives of organized crime policy, for it creates the impression that crime pays, and provides the necessary financial means to enlarge illegal operations, or to consolidate a position vis-a-vis other criminal organizations or the enforcement agencies. Regardless of whether the economic proceeds are used by illegal dealers for consumption or investment, the higher revenues become a problem for organized crime policy.

It is also possible that over the long run, the higher revenues become a problem for drug abuse policy. This would be true, for example, if the conspicuous consumption of wealthy drug dealers attracted more people into the industry, or if the investments made by more disciplined dealers allowed them not only to dominate the supply system, but to increase its overall capacity to supply drugs. In each case, the revenues from the industry would be operating to increase the overall supply capacity of the system, just as excess profits in a legitimate industry would attract new investment into that industry.[44]

It is important to keep in mind, however, that the reasons that prices are high in the drug industry is precisely because dealers are confronted by risks of violence and financial loss from both the government and other criminals. This fact remains true and continues to discourage many from entering the business. Indeed, the greater the risks, the greater the profits must be to attract any one into the business. That is the explicit purpose of making the drug business illegal and attacking it aggressively. As long as that threat remains substantial, the overall supply capacity of the industry will be much smaller than otherwise, even though people in the industry are making money. People do not flock to the industry, even with high prices and high revenues, because the risks are also high.

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[44] The economic analysis here is indeterminate. It is very likely that increased risks imposed on dealers will reduce the *quantity* of drugs supplied. It is also certain that the prices will go up. Whether this means that the dealers who stay in the business make more money or less, and whether the business as a whole looks more or less attractive to individual dealers depends on what happens to the structure of the industry. If it tightens, then the remaining dealers may be better off. If it does not tighten, all dealers may be worse off. See Moore, *Buy and Bust*, pp. 10-15.

The Impact of the Legitimate Drug System

The last important factor shaping the structure, conduct and performance of the illicit drug industry is the character of the legitimate drug system that operates alongside it.[45] The significance of the legitimate drug system is most obvious for drugs such as methadone, amphetamines and barbiturates, whichhave important medical uses, and very large legitimate production and distribution systems. Even those drugs that do not have legitimate medical uses often have some contact with a legitimate market system. Some illicit heroin, for example, comes from legitimate opium crops grown to produce morphine. Hallucinogens and methamphetamine are often manufactured from chemical precursors that have significant legitimate uses. And even marijuana has a legitimate sector composed of researchers who are experimenting with its pharmacological characteristics and potential medical applications for the control of glaucoma and depression.

The existence of a legitimate sector in which raw materials, precursors, or finished goods are produced, stored, distributed and consumed has a potentially significant impact on the character of the illicit industry. The reason is that diversion from the legitimate market becomes an alternative to wholly illicit production and distribution as a source of supply to illicit markets. Exactly what influence will be exerted depends on the size of the legitimate market, the strength of the regulatory regime that surrounds it, and whether the legitimate system includes the production and distribution of finished goods or stops some place short of this goal.

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[45] Mark H. Moore, "Reducing Supplies of Drugs to Illicit Markets." For an analysis of an analogous problem, in a different area, see Mark H. Moore, "Keeping Guns from Criminals and Off City Streets" Annals, Vol. 455 (May, 1981).

For drugs which have a large, loosely regulated legitimate supply system that includes the distribution of finished goods, diversion from legitimate sources is likely to become the dominant source of supply to illicit users. For drugs that have only a small legitimate sector that is limited to raw materials or pre-cursors, the illicit supply will be dominated by wholly illicit production and distribution. Thus, the illicit demand for tranquilizers is likely to be supplied principally by diversion. The illicit demand for hallucinogens and marijuana will be principally supplied by wholly illicit production and distribution. Also, the illicit demand for amphetamines and opiate analgesics, such as heroin, morphine and methadone, will be supplied partly by diverted legitimate drugs, and partly by wholly illicit production and distribution.

The existence of a legitimate sector from which drugs may be diverted to illegal use will generally improve the performance of the illicit market in that drugs will be cheaper and more readily available than they would be if no legitimate sector existed. This is true simply because some portion of the activities necessary to produce and distribute the drug will not be hampered by the difficulties created by illicitness. Raw materials can be acquired, transformed into finished products, stored, and distributed with fewer worries about theft and betrayal by associates, or disruption by enforcement officials. True, operating costs will be increased by the requirements of the regulatory regime. And true, also, someone must absorb the costs and risks of diverting the drugs to illicit markets. But in all likelihood, these costs will be much smaller than the costs imposed on the firms, if they had to assume all of the burden of protecting their property and enforcing contracts as they have to in wholly illicit industry. To the extent that only a portion of the supply system must pay these costs, operating costs and therefore prices should be lower in illicit markets.

The existence of the legitimate industry should also make the illicit markets much more flexible. If an illicit amphetamine laboratory finds that it cannot obtain precursors from the legitimate market, it can always go into the business of stealing them from the legitimate sector. Once it has the capacity to steal precursors, the illicit firm might find it easier to steal finished products. In short, the existence o the legitimate market allows illicit dealers the options of relying on theft or fraud with or without the collusion of peo within the legitimate industry to meet market demands - option that would not be available if there were no legitimate market

The impact of the legitimate market on the structure of t illicit industry is also quite important. The crucial variabl are the places where leaks occur in the process of production a distribution and the size and regularity of leaked quantities.

Obviously, if only raw materials and precursors leak from the legitimate system, the illicit system will have to develop illicit production capabilities to transform the raw materials into finished goods. This will exert a slight centralizing trend, for the knowledge and the equipment necessary to produce the drugs constitute a form of capital that must be amortized a that means those who possess these will stay in business long enough and produce enough drugs to achieve this goal. The break-even point may not require a very large or very durable firm. The point is that the diversion of raw materials will be associated with larger more durable firms than the diversion of finished goods.

When finished goods are stolen, the firm may have no capit to amortize, and may stay in business only long enough to dispo of an existing quantity. Of course, a large theft, such as a truck hi-jacking, can make a firm look like a major trafficker. If the firm arranges to continue hi-jacking drug shipments, it may become a major drug dealer with an unusual source of supply. In the more likely case, however, a large theft of legitimate drugs will produce a large, but transient firm. It will go out of business shortly.

The other possibilities are that small quantities of finished goods are diverted either continuously or irregularly from the legitimate supply system. This form of diversion will produce small firms that are either durable or transient depending on how frequently they go back to the well.

Thus, the supply of drugs that have legitimate uses to illicit markets will be decisively influenced by the size and character of the leaks from the legitimate system. The earlier in the process of production and distribution the leaks occur, the larger and more continuous they are, the more the illicit supply system will be composed of large durable firms. The later in the process of distribution, and the smaller and more erratic the leaks, the more the industry will be atomized. Thus, one might expect the illicit market in tranquilizers and methadone to be composed primarily of small, transient firms fueled by small scale thefts. The illicit markets in amphetamines and hallucinogens are likely to somewhat more concentrated with more of the illicit supply in the hands of larger, more of the illici supply in the hands of larger, more durable firms.

Different Drugs, Different Industries

So far, our analysis of the illicit drug industry has abstracted from the particular features of the principal drugs of abuse in the United States. We have treated heroin, cocaine, marijuana, hallucinogens, amphetamines, barbiturates and tranquilizers in a similar analytic framework. But to analyze the supply systems for these drugs from the same analytic perspective is not the same as assuming that the supply systems will be similar. It is only to assume that they will be pushed in similar directions by the factors we have considered. Exactly how far they will be pushed in one direction or another strongly depends on all the factors we have considered, including how zealously the illegal supply systems are controlled by regulatory and criminal enforcement.

Heroin

Heroin, for example, seems to be primarily a problem of wholly illicit production and distribution.[46] the fields in which the opium poppies are grown are generally illicit fields in countries that cannot adequately enforce existing laws prohibiting the cultivation of opium. Similarly, the processing of the raw opium into heroin occurs principally in foreign countries - probably to reduce the bulk of the material to facilitate international smuggling. Because the volume of heroin is so small, it comes into the United States through many different devices - in the carry-on luggage of pilots, hidden in small cans of tomatoes and olive oil, concealed in secret compartments built into cars, and so on. In the United States the distribution systems seem moderately tightly concentrated with significant local monopolies, but little vertical integration. There is probably some degree of horizontal integration at the importing stage, and it is at this stage that the concentration of the distribution system is probably the greatest. Perhaps the few largest firms in any given city control more than two-thirds of the total volume of heroin in the city, with some cities in the U.S. serving as transshipment points for other cities. This relatively tight and concentrated structure is the result of the fact that the enforcement pressures are probably still the heaviest against heroin dealers.

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[46] Select Committee on Narcotics and Drug Abuse, *Annual Report for the Year, 1984*.

Cocaine

The cocaine supply system seems quite similar to the one for heroin.[47] It is principally a problem of wholly illicit production and distribution. The sources of raw materials and finished products are primarily foreign. The physical volumes be handled are small enough to make concealment of the drugs a relatively trivial matter and to allow smugglers to use a variet of different methods for bringing the drugs into the country. The average size of the deals measured in terms of financial requirements seem to be approximately the same as those that occur in the heroin market.

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[47] Ibid. See also, Peter Reuter, "Risks and Prices."

The major difference between the heroin and the cocaine supply systems seems to be that the cocaine system is less concentrated, and more violent than the heroin market. There seem to be many more entrepreneurs who enter the cocaine business on a short term basis. Moreover, none of the groups operating on a more permanent basis seems to have established predominance in the industry. Thus, it is not surprising that this market is more violent than the heroin market, for there are cash, drugs and market position up for grabs in a way unlike the heroin market.

Marijuana

Marijuana is similar to heroin and cocaine in that it is a wholly illicit system with predominantly foreign sources of raw materials. Three principal differences seem to make the marijuana supply system quite different, however.[48] One crucial difference is that the bulk of marijuana per dollar of value is so much greater than that of heroin and cocaine that the smuggling problem is enormously exacerbated. A hundred thousand dollars of heroin or cocaine can easily be held in a suitcase, but to carry a hundred thousand dollars worth of marijuana, one needs a small truck, boat or plane. Because marijuana is so much more visible than heroin or cocaine, the primary mode of smuggling is in large loads landed between ports of entry rather than infiltrated through ports of entry in the huge volume of cargo and people that daily cross the U.S. borders. This also implies that many specialized firms might grow up to cope with the special problems of smuggling marijuana.

A second difference between heroin and cocaine on the one hand and marijuana on the other is that the pressures in the illicit industry seem less. It is not that marijuana dealers do not face substantial financial risks. Indeed, it seems that quite the opposite is true. The best current estimates indicate that marijuana dealers lose from a quarter to a third of their shipments to enforcement agencies.[49] Instead it seems that the losses are primarily financial, and primarily inflicted by the government. Other criminals do not seem to prey on marijuana traffickers in the same way that they attack heroin and cocaine dealers. Moreover, even if the government seizes property and arrests the dealers, the prison terms meted out to marijuana traffickers seem less severe than for those who traffick in other drugs. Since the marijuana dealers face smaller and less drastic threats from both the government and other criminals, the marijuana market seems less preoccupied by the problems of secrecy, discipline and security than the heroin and cocaine markets. The net result of this is an industry that is probably less concentrated then either the heroin and cocaine market, and almost certainly less violent.

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[48] Mark A. R. Kleiman, "Allocating Federal Drug Enforcement Resources," Ch. 4.

[49] Ibid., Ch. 4, p. 12.

The third important difference shaping the marijuana industry is the existence of small scale domestic production and distribution as well as foreign. Indeed, the potential for small scale domestic cultivation of marijuana makes the marijuana market more like the market for barbiturates and tranquilizers than for heroin, because some portion of the overall illicit demand will be met by those who grow their own. It is this fact that guarantees the overall industry cannot become very concentrated, just as it is the widespread availability of barbiturates and tranquilizers through small scale diversion from legitimate sources that prevents a concentrated illicit industry in these drugs from developing.

Hallucinogens, Barbiturates and Amphetamines

The supply system for hallucinogens seems to be primarily domestic illicit production, although it is possible that some drugs come from Mexico or Canada. There is a degree of concentration in this industry as a result of specialized knowledge, and the creation of brand names to which consumers become loyal. It seems to operate with relatively little reliance on either violence or bribery, probably because the industry is sufficiently small to not be worth the time of enforcement officials or other criminals.

The industry that supplies barbiturates to illicit markets seems to depend primarily on diversion from the legitimate market. Thus, its structure mirrors the character of the leaks from the legitimate system. This seems to produce a highly atomistic market composed of small or transient firms. Again, there is little reliance on either violence or corruption because the economic stakes seem too small to warrant such risky conduct.

The amphetamine industry seems to be a combination of the supply system for hallucinogens and barbiturates. There seems to be small scale illicit production and distribution that is primarily domestic, but also from our near neighbors. There is also diversion from the large legitimate supply system. The net result is an industry that is high performing, relatively atomistic in structure, and relies little on either violence or corruption.

Designing a Strategy to Attack the Illegal Drug Industry

From the perspective of drug abuse policy the primary objective of a strategy to attack the illegal drug industry is to increase the effective prices of drugs in illicit markets.[50] Given our analysis of the factors shaping the structure, conduct and performance of the industry, it is reasonable to suppose that making the production and distribution of drugs illegal will tend to make drugs more expensive and less available than they would be if they were legal. The important policy question is how the resources of the government - its diplomatic initiatives, its interdiction efforts, and its criminal investigations - might be deployed to maximize the impact of supply reduction efforts on the effective prices of illicit drugs.

Priorities in Attacking the Illegal Drug Industries

One way to establish priorities is to determine which particular drugs seem to be causing the greatest social problems, and which present opportunities that would give supply reduction efforts relatively powerful leverage.[51] The worse the drug, and

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[50] Moore, "Reducing Supplies."

[51] This approach was taken by the Nixon-Ford Administration: See Domestic Council Task force, White Paper on Drug Abuse.

and the more powerful the leverage that can be exerted, the higher the priority.

Of course, the question of which drugs pose the greatest threat to the society is much debated. One way to resolve the issue is to gauge the number of chronic users of each drug, and to weight that number by the seriousness of the health, economic and social problems that the chronic users of each drug suffer.[52] By this reckoning, heroin, amphetamines and barbiturates tend to come out on top as the worst drugs.[53]

A second standard would be to consider which drugs are most widely used, and therefore operate as the principal transmitter of an illicit drug culture and the most common introduction to drug use for young children. By this standard, marijuana and tranquilizers would probably come out on top.

A third standard would be to determine which drugs seem to be associated with the most money, violence and corruption, and attack that drug as the principal threat to the society. This last standard would probably make cocaine and heroin the dominant targets of drug policy.

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[52] Ibid., pp. 32-33.

[53] Ibid.

In thinking about which of these standards might be appropriate to use in deciding which drugs caused the greatest social problems, it is worth trying to keep the separate objectives of drug abuse policy and organized crime policy in mind. The principal objective of drug use abuse policy is to minimize the social problems associated with drug use. A key instrument of that policy are criminal laws controlling the supply of drugs. These policies succeed when there are few people using drugs in patterns that create grave threats to their health and economic welfare. In effect, we use criminal laws and criminal enforcement to achieve a social welfare objective.[54]

The principal objectives of organized crime policy are to suppress the provision of illegal goods and services that constitute the core of organized crime, to prevent the violence and corruption that is more characteristic of organized crime groups than other kinds of criminal activity, and to prevent the emergence of very large, durable organizations with well developed capacities for violence and corruption.

There is a substantial overlap in the goals of organized crime policy and supply reduction efforts insofar as organized crime policy takes the control of the supply of drugs as an important objective, and insofar as the illicit supply systems included violence, corruption and large firms. But to the extent that the core of organized crime policy is really concerned with the disruption of major criminal organizations, there is an overlap between the core of drug abuse policy and organized crime policy only insofar as the drugs are supplied by rich, violent and powerful criminal organizations. As we have seen, that is true of only a certain number of drugs, and not necessarily the drugs that pose the greatest threats in terms of widespread and dangerous consumption.

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[54] Ibid., pp. 2-4.

In fact, the third standard described above is closer to a description of the core objectives of organized crime policy than to the core objectives of drug abuse policy. In essence, the society has to decide whether it means to go after the drugs that cause it the most problem in illicit use, or whether it should attack the drugs that are supplied by the nastiest and toughest dealers. These are not necessarily the same.

The Instruments of a Strategy Against Illicit Drug Industries

Once the society has implicitly or explicitly established its objectives, it must then look to the available instruments of a supply reduction strategy. Again, there are many different ways one can think about the available instruments.

Attacking Different Drugs. One way is to think about them in terms of the particular drugs they attack. Thus, one can distinguish the instruments of heroin policy (which include the effective control of legitimate opium in Turkey, the suppression of illicit crops in Mexico and Afghanistan, the encouragement of crop substitution in Thailand, the creation of specialized heroin detecting devices at U.S. ports of entry, and the targeting of heroin importing and distributing organizations, and even the occasional attacks on street level dealing in notorious areas of a city) from the instruments of a marijuana control policy (which includes diplomatic initiatives and foreign aid to Mexico and Jamaica, the eradication of illicit fields, the training of marijuana sniffing dogs to stand guard at the border, the mobilization of the Navy and Coast Guard to aid in the identification of ships engaged in large scale smuggling, and so on). The point is that many policy initiatives are specific to, or have their maximum impact on, one drug rather than another, and it is a useful exercise to see how our efforts are deployed against particular drugs.

Operating in Different Locations. A second dimension in which strategies against the illegal drug industry can be described and evaluated is geography. One can talk about the division between the international drug control effort and the domestic activities. Among the international efforts, one can talk about policy towards Southeast Asia (which would be principally directed at heroin), or towards Colombia (which would be principally directed against cocaine), or towards Mexico (which would embrace heroin, marijuana and amphetamines). Within the domain of domestic supply reduction efforts, one can discuss the allocation of enforcement efforts across major cities in the United States, and this, too, has implications for the different drugs attacked. Enforcement efforts in New York and Los Angeles will probably give more emphasis to heroin and cocaine than efforts in Kansas City or St. Louis.

Targeting Factors of Production. A third dimension in characterizing and analyzing supply reduction policy instruments is the factor of production and distribution that is the principal target. Thus, one can distinguish eradication and crop substitution programs, which are directed at raw materials; from financial investigations, which attack the capital of illicit dealers; from interdiction programs which attack goods in transit, from conspiracy investigations, which are designed to immobilize trafficking network; from street level enforcement which is designed to discourage advertising and the development of new markets. Of course, many instruments allow one to reach other targets as well as its principal target. Indeed, conspiracy investigations are often built from the discoveries made in interdiction and street enforcement programs. The point is that these different policy instruments have different factors of production as their proximate targets. To the extent that some factors of production and distribution are scarcer than others, the relative importance of the different supply reduction instruments in constricting the supply of drugs may be gauged and appropriate adjustments made in the supply reduction strategy.

Relying on Different Agencies. A fourth way of thinking about supply reduction policy instruments, and probably the most common, is in terms of the agencies that are principally responsible for carrying out different activities within the overall supply reduction effort. Thus, one thinks in terms of the international supply reduction program as the principal responsibility of the State Department; the interdiction effort as the primary responsibility of the U.S. Customs, Border Patrol, and Coast Guard with occasional assistance from the U.S. Armed Forces; the domestic investigation program as the primary responsibility of DEA and the FBI; and the street level enforcement effort as the primary responsibility of the nation's thousands of local police departments. Thinking about the supply reduction effort in these terms has the advantage of bringing immediately to mind which agencies are available for supply reduction efforts, and of suggesting approximately where they can make a contribution both geographically and in terms of squeezing particular factors of production and distribution. It has the disadvantage, however, of not sharply distinguishing among the different efforts in terms of either drugs or specific factors of production and distribution.

The Strengths and Limitations of Alternative Instruments

For purposes of a broad brush strategic analysis, we will use this last set of categories, since they are the terms in which most of the policy discussions at the federal level are now being carried out.[55] Our task will be to determine the potential of each area in minimizing the supply of drugs to illicit markets in the U.S. That, in turn, depends on our ability to see how each of these programs affects the factors of production and distribution for the major drugs of abuse.

The International Program. The international drug control program has two principal liabilities as an instrument of supply reduction efforts. The first is that this program is inevitably hostage to the interests and capabilities of foreign governments: the U.S. can do no more in this area than other governments will allow it to do.[56] Of course, there are numerous ways in which the U.S. government can increase the motivation and capacities of foreign governments to control drugs that reach U.S. markets. The U.S. can indicate the importance it attaches to drug control among other interests it is pursuing within a given country; or it can appeal to obligations a country has under international treaties; or it can appeal to the country's self interest by documenting the extent of the country's domestic drug problem.[57] On the capacity side, the U.S. can contribute money, or particular kinds of equipment, or technical assistance in the forms of specific on-site advice, or more generalized training of drug control officials.[58] These specific measures constitute the daily activities of the international program. In the end, though, they run up against more or less unmovable barriers, such as the limited control of central governments over out-lying areas of a country, or the inefficiency and corruption of government agencies. Against these obstacles there is often little that the U.S. government can do.

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[55] Drug Abuse Policy Office, 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking, (Washington: GPO, 1984).

[56] Reuter, "Forlorn Hope." See also, Ethan Nadelmann, "International Drug Trafficking and U.S. Foreign Policy," (Unpublished Mimeo: Center for International Affairs, Harvard University, 1985).

The second limitation is that the bulk of this program seems too targeted on the raw materials for heroin, cocaine and marijuana. Arguably, this is not particularly effective, since there is not particular reason to believe that the raw materials for these drugs are in long run short supply. Indeed, all our experience and intelligence suggests that potential growing areas for these drugs are widespread, and that the elimination of fields in one place will fairly soon be replaced by cultivation elsewhere.

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[57] Select Committee, Annual Report.

[58] Ibid.

These limitations are sufficiently severe that it would probably be a mistake to rely on the international program as the primary instrument in a supply reduction strategy. It simply cannot do enough work reliably enough to merit that position. Having said this, however, there are some very important things the international program can do that will make an important contribution to the overall effectiveness of supply reduction efforts.

The first is that it will occasionally occur that the standard efforts of the international program suddenly become effective. This usually occurs when a country important in supplying drugs to the United States suddenly becomes highly motivated to control drugs. When this happens, support from the United States can often result in a significant shortage of the drug. Typically, the shortage lasts no longer than a year or two as the illicit industry adjusts to the new conditions. But even so, that shortage is worth producing. That is particularly true for drugs that are unusually dependence producing, for the shortage means that a cohort of children in the ages of maximum vulnerability squirts through that period of relative shortages with much lower probabilities of dependence or addiction.

Indeed, this is what happened in the early part of the 1970's, when Turkey suddenly shut down its legitimate production of opium and helped to produce a two to three year shortage in

the supply of heroin.[59] The effect of this success was hi
effective prices in the United States, reduced incidence o
heroin use, and a shift to Mexico and Southeast Asia as th
cipal sources of supply, although for a while at lesser vo
than had been true when Turkey was also a supplier.[60]

Keeping open such opportunities, and being in a posit
exploit them when they come along, are the principal contr
tions of the international drug program. But one cannot a
count on such successes. It is important, then, that the
national program continue, trying to increase the likelihoo
it can occasionally produce such successes, but no one shou
rely on it as the principal supply reduction instrument.

A second way that the international program can be hel
is by stepping up its efforts to support international cri
enforcement. In essence, the focus of the international p
might usefully shift from crop eradication, to efforts to
international traffickers "safe havens" anywhere in the wo
This would mean concretely increased progress in negotiati
extradition treaties with countries that now harbor traffi
and improving operational coordination between foreign and

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[59] Ibid.

[60] Ibid.

police agencies to take advantage of both extradition and investigations and prosecutions within the host country.[61]

Such a thrust has potential for two reasons. First, it is a narrowly focused program. It has none of the logistical and bureaucratic difficulties of massive crop control programs. Second, it is targeted against a factor of production and distribution that is probably in long run short supply, namely individuals with a sufficiently well established reputation for both reliability in successful transactions and viciousness in betrayals, who become the primary people with whom large drug deals can be made.[62] If this is the factor in long run short supply in the illicit industry; and if the international program could squeeze this factor even more by denying notorious dealers safe havens anywhere in the world; then the international program would have another more reliable and more powerful way of making a contribution than cultivating the motivations and capacities of foreign governments to control illicit crops.

Interdiction. In recent years, the interdiction program has probably been the fastest growing component of the supply reduction effort.[63] The growth has come primarily as a result of engaging the U.S. Coast Guard and other military agencies in the pursuit of smugglers on the ocean and in the air. The results of this effort can be seen in the dramatic difference in the price of drugs landed in the U.S. as compared with the price of drugs off-shore, or in foreign source countries.[64]

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[61] Ethan Nadelmann, "Criminal Law Assistance Treaties", American Journal of Comparative Law, Vol. XXXIII, No. 3. (Summer, 1985).

[62] Moore, "Reducing the Supply of Drugs to Illicit Markets."

The principal problem with interdiction as the dominant instruction of supply reduction efforts is that it is principally focused on a single drug - marijuana. That is particularly true insofar as it concentrates on bulk shipments clandestinely landed between ports of entry, for marijuana is the only drug whose volume restricts smugglers to these methods of getting the drugs across the borders. Smugglers of heroin and cocaine have many more options, and much more of these drugs seem to come across in relatively small containers through ports of entry. Thus, the engagement of the Coast Guard, the Navy, the Air Force, and the Federal Aviation Administration, turns out to be an initiative that is primarily targeted against marijuana. To the extent that one thinks marijuana is currently a high priority drug to control, this may be counted a benefit rather than a problem. But to the extent that one thinks other drugs are higher priority, or to the extent one wanted flexible supply reduction instruments that could be used for controlling several different drugs, the current interdiction program has important limitations.

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[63] Mark Kleiman, "Allocating Federal Drug Enforcement Resources," Ch. 3.

[64] Reuter, "Risks and Prices."

The interdiction program has a further limitation. It is principally targeted on finished inventories of drugs. There is a certain, concrete satisfaction in capturing drugs that would otherwise reach illicit markets. But as in the case of crop elimination, one can wonder whether the inventories are what is in long run short supply. When we think about legitimate firms, we don't think of their inventories of finished goods as being particularly important. Obviously, the inventories have value, and to the extent they are eliminated, the firm had less capital than it otherwise would. But the inventories usually reflect only a small portion of the total value of the firm. When Tylenol had to be taken off the market, for example, no one expected the company to go out of business, even though a month's worth of production had to be written off, and their reputation had been seriously tarnished.

Similarly, it is hard to understand why we think it is so important when drugs are seized. This may be important if the firm was a short term operation, and the seized shipment represented a large fraction of its total assets, but there is no particular reason to believe this. Most of the time it seems that shipments are divided up precisely to hedge against the possibility that he drugs will be seized, and this seems to be a likely event. Current estimates indicate that somewhere between one-quarter and one-third of all marijuana shipments are seized, but this has had little impact on the effective price of marijuana.[65] Thus, our experience and our reasoning suggest that finished goods are not a factor of production and distribution that is in long run short supply. Consequently, a policy instrument directed primarily against such inventories will not exert enormous leverage on the long run effective price of drugs in illicit markets.

Domestic Enforcement. The standard criticism of the domestic enforcement program is that it is "too far from the source" of drugs to allow effective control. By this reckoning both the international and the interdiction programs are preferred instruments because they attack the chain of production and distribution at an earlier stage than domestic enforcement. A second criticism is that the quantity of drugs seized in the domestic enforcement program is too low to allow it to have much effective control. A third criticism is that too much of the effort within the domestic enforcement program goes into low level cases, which are farthest from the source and involve the smallest quantities of drugs.

The difficulty with these criticisms is that they rely on assumptions - with little evidence or reasoning behind them -

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[65] Kleiman, Ch. 4, p. 12.

about the best way to control the supply of drugs. In fact, they emphasize physical over economic relationships. A priori, there is no particular reason to assume that resources are better spent "nearer the source."[66] True, if one stops the drugs earlier rather than later on need not worry about the later stages; and, true, the drugs may be at their maximum concentration with respect to volume at the point they are processed into finished products. But neither point indicates that he source is the most important point to attack. As we have seen, it may be quite difficult to mount an attack at that point. Moreover, both arguments place too much emphasis on the drugs and not enough on the entrepreneurs and firms whose continued determination and adaptability keep the drugs flowing, even if production runs are spoiled and inventories seized.

If the principal difficulties that confront dealers in producing and distributing drugs are risks posed by enforcement agents and other criminals, then the crucial factors of production and distribution are not raw materials and technology and warehouses, but the determination and capacity to complete transactions in this risky environment. Those may be qualities possessed by specific individuals or trafficking networks - not the raw materials, not the finished inventories, not even the financial capital. If these observations are accurate, then any instrument that attacked the capacities to complete risky transactions would be more effective than those that attacked raw materials or inventories.

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[66] Moore, "Reducing the Supply of Drugs to Illicit Markets."

It is here that domestic enforcement operations have advantages as an instrument in a supply reduction strategy. The principal objective of domestic enforcement is the traffickers themselves. The drugs are important only as convincing evidence that will be sufficient to jail, and therefore presumably immobilize, the traffickers. In addition, the tactics of domestic enforcement operate principally on the capacity to execute transactions. The principal tactics include informants, undercover agents, and wiretap investigations. The first two attack the ability to make transactions by forcing dealers to be wary of associates, employees and customers, since any of these might become an informant or an undercover agent. The third makes it difficult for traffickers to communicate efficiently with associates, employees and customers. Therefore domestic enforcement presses hard on the factors of production and distribution that seem in long run short supply.

It is worth noting that slowing transactions and forcing dealers to be cautious has value at many different stages of production and distribution. Even at the lowest levels of distribution there are some advantages in forcing dealers to be cautious, for it prevents the aggressive recruitment of new customers and makes it more difficult even for regular consumers to find drugs.[67] In short, street level enforcement increases the effective price of drugs in illicit markets. At intermediate or high levels each transaction that is slowed reduces the overall capacity of the system to supply drugs, and each trafficking network that is eliminated results not only in loss of current inventories, but also in future capacity to supply.

Moreover, it is possible that the same techniques of attacking transactions, and immobilizing those networks that have developed a continuing capacity to execute transactions in a risky environment, would have enormous value in the international program as well as in the domestic one. Indeed, while one cannot assume that foreign countries have laws enforcement agencies that allow them to attack criminal trafficking organizations, it seems that it is primarily convention that makes us think of the international program as focused on raw materials, and the domestic program as focused on trafficking networks. In principle, one could have a criminal enforcement program that moved across national boundaries.[68] And that might hold the best chance not only for minimizing the supply of drugs to illicit markets, but also for advancing the subjectives and using the resources of organized crime policy.

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[67] Moore, Buy & Bust, pp. 258-259.

[68] Nadelmann, "Criminal Law Assistance Treaties."

An Alternative Approach to Attacking Illegal Drug Industries

If the right way to think about strategies against the illegal drug industry is to guess which factor of production and distribution is in long run short supply and then to devise a strategy that presses hardest on that factor, and if the factor in long run short supply is the capacity to make transactions quickly and effectively, then a different way is opened to think about the strategy against the illegal drug industry. Specifically, the principal aim should be to frustrate transactions and immobilize the largest trafficking organizations.

With this as the principal aim the way that we think about each of the other instruments changes. Of course, the international efforts to control legitimate crops and eradicate illicit fields retain their special, occasional importance, and the separate arguments for maintaining pressure at the street level remain strong. But we can also see that the international program, interdiction, and domestic enforcement all represent different opportunities to slice into the illicit industry, and create possibilities for developing cases against illicit traffickers. To see how this alternative strategy would work, it is useful to introduce some different analytic terms.

Patrol versus Investigation. If the goal is to immobilize trafficking organizations that are able to complete transactions with ease and efficiency, the central problem is to determine who the traffickers are and to develop evidence against them. This sounds like a problem of criminal investigation, and so it is. But all investigations must begin somewhere. In ordinary criminal investigations the start is usually provided by a victim or witness to the offense or by physical evidence available at the site of the crime.[69] In narcotics investigations there is no victim, the witnesses are likely to be implicated in the crime, and the physical evidence will not reveal much.[70] On the other hand, the traffickers are likely to continue committing offenses, and therefore the opportunity to observe a crime occurring is high, if the enforcement agencies can get themselves into position to see it.

In practice this means that narcotics investigations are extremely dependent on informants and undercover operators, who can provide evidence themselves or produce sufficiently precise and accurate information to justify a wire-tap or other less intrusive but more expensive and less penetrating form of surveillance. They can position the evidence-gathering capabilities of enforcement agencies and how to infiltrate undercover agents into the illicit industry. The question thus becomes how to develop and use informants and how to use informants and how to infiltrate undercover agents into the illicit firms.

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[69] Mark H. Moore, "Invisible Offenses: A Challenge to Minimally Intrusive Law Enforcement" in Gerald M. Caplan, ed. Abscam Ethics (Washington, D.C.: The Police Foundation, 1983).

[70] James Q. Wilson, The Investigators (New York: Basic Books, 1978).

One answer to that question is to attack the illicit supply systems in the places where it is least protected. This means on the streets in central cities where the distribution system must finally come into the open. Or, it means at the point that is inherently vulnerable, where drugs are moved physically from one place to another. Or, it means as raw materials are being collected from remote fields in foreign countries. Surveillance and undercover operations conducted in these areas will not only frustrate transactions at these levels, and remove small stocks of drugs, but they will also produce the rumors, the physical evidence, and the potential informants who might provide the basis for more intrusive and determined investigations of larger networks.

This will not always work, of course. Many people arrested at this level will be small scale, transient operators. Others will be employees, but they may be unable to supply information. Still others may know a great deal but be afraid to reveal it. Moreover, there are other ways of developing informants. One can offer large payments to those who are greedy, or protection to those who are afraid, or both to potentially valuable sources. And, just as low level enforcement operations against street dealers,smugglers, and collectors in foreign countries can produce potential informants, all successful investigations against medium and high level investigations can also yield informants.

Therefore, successful cases can be built from many sources other than low level cases.

But the argument is that a high volume enforcement effort at low levels is often quite valuable as a source of rumors, intelligence and informants. In fact, there is an argument supporting low level enforcement. Even more unexpectedly, there is an argument for a low level enforcement that is not directed or guided by intelligence about the operations of major traffickers.

The strength of investigative efforts is their capacity to make connections among known facts and inform enforcement agencies how to position themselves to penetrate existing trafficking organizations and develop evidence for a successful prosecution. The weakness of investigation is that it becomes increasingly narrow and discounts information that cannot be related to something that is already known. In attacking something as mysterious and dynamic as the illicit drug industry, this tendency to become narrow is potentially very dangerous. There is always the chance that one is concentrating on only a small piece of the overall industry and that there is a newer or better shielded piece that has so far escaped notice. If this is true, the only way that enforcement agencies could discover this is to look in areas where they didn't expect to find something. That is the role of broad, untargeted low level enforcement agencies. Like pickets and patrols sent out by a main military force to maintain contact with a mysterious enemy force, agents on the street, at the border, and in the bazaars of foreign countries help the investigative forces stay in touch with the emergence and development of new trafficking capabilities.

For analytic purposes it is useful to think of these broad, low level enforcement operations as "patrol" operations, which are scanning for drug offenses, and the remaining pieces as "investigative" operations, which can develop the leads into powerful cases that immobilize major trafficking organizations. Moreover, in many ways, the patrol operations perform better, if they are broad and random, rather than narrowly targeted. A random strategy is more successful in deterrence, and in disclosing previously unsuspected trafficking networks.

The Role of Intelligence and Conspiracy Investigations. To take full advantage of the potential relationship between investigative and patrol functions and to produce the maximum impact on trafficking organizations, it is necessary that some previously neglected capabilities be more fully developed. Two are particularly important: the intelligence function within the investigative agencies, and the capacity to develop and prosecute conspiracy cases within investigative and prosecutorial offices.

By the intelligence function, I mean the capacity to make disciplined use of the information about trafficking networks that is potentially available to the investigative agencies. This is essential not only to take full advantage of any opportunities that present themselves, but also to make sure the investigative agencies are not misled by informants. As we have seen, there is always an incentive for traffickers to inform on their competitors. And there is always an incentive for enforcement agencies to use the information and keep the informant alive. This is acceptable as long as the informant is not more important than the traffickers he is delivering to the enforcement agencies. But if the informant is himself a dealer, then the result of his informing looks like he and the enforcement agency are colluding to maintain his position in the market. The only way to guard against this is to have relatively accurate information about both the informant and the target and to have someone other than the case agent monitoring this situation. That is something that a good intelligence analysis function could provide.[71]

The capacity to make conspiracy cases is essential because there are many traffickers who can be revealed only through conspiracy indictments. They may never be in direct contact with drugs, or with the violence and corruption that provide the structure within which the drugs can be confidently moved from place to place and from person to person. In addition, conspiracy cases have the advantage of simultaneously immobilizing many pieces of a trafficking network, leaving no remnants from which a new network might be constructed. If a single person is remov he may be replaced. If the entire network is eliminated, replacement is more difficult because none of the personal relationships that are so essential to successful trafficking rema

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[71] Mark H. Moore, "Testimony Before the Select Committee on Intelligence" No. 11, 1975.

The challenges to investigators in making conspiracy case are partly matters of technique. Electronic surveillance is often an essential ingredient, as are financial investigations. And each require the development of special skills. But producing high quality conspiracy investigations also requires a char in attitude. They require patience - including situations wher enforcement agencies allow some dealers to continue operating even though they are indictable. They also require risking certain cases that are certain, for a future case that may or m not develop. Finally, the prosecution of conspiracy cases oft depends on telling convincing stories rather than hard physical evidence. Even though the stories might be a more accurate account of what has been happening than the hard physical evidence, it requires a real knack for analysis and inference to make the story solid and convincing. In short, patience, a willingness to take risks for an uncertain gain, and thought ar required, and these are not always qualities plentiful in actio oriented enforcement agencies. Yet, without these, the aggressive actions might have less impact than they otherwise could.

Summary and Conclusions

Criminal statutes directed at illicit drug trafficking and use are an important part of drug abuse policy. If they were perfectly effective in discouraging people from drug trafficking and drug abuse, there would be little need for any other instruments.

The problem is that these laws are imperfectly effective: they leave a residual market that consists of a continuing (but smaller) demand for drugs, and a continuing (but smaller) capacity to supply drugs to that market. To deal with the continuing demand, the society relies on drug treatment and preventive education programs. To deal with the continuing supply, the country invests in diplomatic efforts to motivate foreign countries to control drugs destined for the U.S., interdiction efforts to keep the drugs from landing on our shores, domestic enforcement to disrupt trafficking networks and discourage the aggressive marketing of drugs to non-users, regulatory efforts to keep legitimate drugs contained in legitimate channels of distribution and use.

These efforts on the supply side of the illegal drug market are helpful in achieving the purposes of drug policy. They increase the price and reduce the availability of drugs, and therefore discourage new drug use and motivate older users to abandon their drug use. But the laws create a problem for organized crime policy, for they establish the soil from which an illegal industry can grow. The firms that continue in the industry will make a great deal of money as compensation for the risks they run by continuing in the business. In addition, they will engage in violence and corruption as crucial elements of their strategies for surviving in an illicit industry. Finally, some of the individuals and organizations involved in drug trafficking may grow to become powerful criminal institutions that seem to defy effective control by law enforcement agencies. To the extent that these illicit firms become more adept at dealing drugs, they may become not only an organized crime problem, but an increased threat to the objectives of drug abuse policy. Thus, the special instruments we associate with organized crime policy must be deployed not only to deal with the organized crime problem that is created by our drug abuse policy, but also to prevent organized criminal groups from defeating the purposes of drug abuse policy.

Viewed from the perspective of drug abuse policy, the central objective of a strategy attacking the illegal drug industry is to minimize the capacity of the illicit drug industry to supply drugs to illicit markets. In terms of traditional analyses of industrial organization, this objective can be

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described as minimizing the "performance" of the illicit industry.

Viewed from the perspective of organized crime policy, the central objectives are to prevent the development of wealthy and powerful criminal groups and to reduce the violence and corruption associated with the illicit drug industry. Again, in the traditional analyses of industrial organization, these objectives can be captured by attacking the structure and shaping the conduct of the industry.

There may be some tension between the objectives of drug abuse policy on the one hand, and organized crime on the policy on the other. To the extent that the drug laws create the conditions under which an illicit industry might arise, there is an obvious conflict. Legalization of the drugs would almost certainly increase the number of chronic, intensive drug users and therefore make the drug problem worse. But it would also eliminate drugs as an organized crime problem. Beyond this observation is another paradox, however. From the perspective of drug abuse policy, a highly concentrated industry may be preferable to an atomized industry. A concentrated industry might supply fewer drugs at higher prices than an atomized industry. And, although each firm in the industry may be harder to attack effectively, the impact of a successful attack might be larger and more enduring than the results of ten successful attacks on smaller firms that accounted for a smaller portion of the total supply capacity and were easier to replace. From the perspective of organized crime policy, however, a concentrated industry would be worse because it would imply the existence of large, enduring organizations of substantial power and influence. What is not in conflict, however, is the need of both drug abuse policy and organized crime policy to develop and use tactics that are successful in attacking large, entrenched criminal organizations. This is useful to drug policy and essential to organized crime policy.

In controlling the supply of drugs to illicit markets the United States relies on many instruments, in addition to attacks on organized criminal groups that deal in drugs. There is an "international program" that tends to focus on the production of raw materials to produce heroin and cocaine. This has the advantage of occasionally producing a significant but short-lived result when a foreign country's increased motivation and capacity to deal with the problem eliminates an important source of supply to the U.S. But the value of the instrument overall is limited by the widespread availability of raw materials and the fact that U.S. objectives are always hostage to the motivations and capacities of foreign governments.

There is also an "interdiction program" designed to intercept the drugs and shipment before they cross U.S. borders. This has the advantage of creating a significant obstacle to traffickers and inflicting economic losses on traffickers as a result of seizures. It has the disadvantages of focusing principally on the inventories of drugs rather than on the organizations that continue to send them, and of being relatively less successful in dealing with heroin and cocaine than with marijuana.

Finally there is a "domestic enforcement program", designed to attack domestic trafficking organizations, and to discourage the agressive marketing of drugs through street level enforcement. This program has the advantages of focusing on the trafficking organizations and engaging the substantial resources of the nation's 400,000 local police officers. It has the disadvantages to being only occasionally successful in eliminating major trafficking organizations.

What appears to be missing in this common conception of the nation's strategy against the supply of drugs to illicit markets is precisely the perspective that a focus on international criminal organizations would bring. It seems likely that the capacity to execute large scale transactions in the risky environment of an illicit industry is in long run, short supply in the illicit drug industry. The firms that can overcome these difficulties are likely to be large scale, enduring, organizations with a well established reputation for irresistible violence. Thus, these firms - in all likelihood, international firms - should become the main targets of a supply reduction/organized crime policy.

If this is the principal target, one's view of how the society should deploy it resources should change dramatically. The interdiction and domestic enforcement programs are suddenly seen principally as "patrol operations", which can produce intelligence and informants to be used in mounting attacks on major trafficking organizations. Moreover, the focus of the international program should shift from concerns about crop control to the support of foreign enforcement efforts and the negotiation of treaties, which would allow the more convenient prosecution of drug traffickers whose crimes cross national boundaries. Finally, major investments should be made in the capabilities of intelligence agencies and an orientation towards sustained conspiracy cases among investigators and prosecutors. This strategy holds the greatest potential to achieve the objectives of both drug abuse policy and organized crime policy. Moreover, this strategy depends most heavily on the continuing development of our capacity to deal with organized criminal groups no matter what illegal goods and services they happen to be supplying.

WINNING THE WAR AGAINST DRUGS

By Mitchell S. Rosenthal, M.D.

Submitted: October 1, 1985

Dr. Rosenthal is President of the Phoenix House Foundation, a drug rehabilitation program.

There is a popular perception these days that America is locked in a "no win" struggle against drugs. This notion of "the endless battle," in which we seem unable to prevail, that has prompted a good many lawyers, scientists, and writers to suggest that it might be time for the United States to quit.

Some Americans have always believed that the use of certain illicit drugs is not such a terrible thing and others have argued that the government has no right to tell citizens what they can or cannot ingest. But the strongest opposition to the nation's drug laws and policies has come from those who believe that they should be scrapped because they do not work well. The latest converts to this cause contend that legalization of marijuana and cocaine (some would include heroin) would eliminate drug profits and crime overnight and substantially reduce the costly burden of enforcing drug laws.

The "quit now" crowd plainly does not recognize that there is a world of difference between "not winning" a war and "losing" one. The war against drugs, although it is going badly at the moment, is far from lost. But quitting now and attempting to solve the drug crime problem through legalization would be tantamount to losing -- at least in terms of the impact on drug abuse.

The notion that we could make drugs legal, while simultaneously mounting (as some advocates of legalization suggest) a massive public education campaign to discourage their use would give cocaine and marijuana the same status as cigarettes. The most likely result, according to the former director of the National Institute on Drug Abuse, would be a tenfold increase in cocaine use. There would be just about as many Americans using cocaine as now smoke cigarettes.

Another reason not to give up the fight is because we can win. After more than 20 years of treating and curing drug abuse, I see enough evidence to convince me that the war is winnable -- not now, but in time. It is winnable because what denies us victory today is the nature of the war we are waging and not the nature of the enemy we are fighting.

The war is going badly for much the same reasons that any war goes badly. In part, it is inappropriate strategy -- fighting the wrong enemy, in the wrong place and with the wrong weapons. In part, it is a failure of will.

We are on the defensive, with battle lines stretching along our borders. Our main weapon is interdiction. Most of the billion dollars a year the Federal government spends enforcing drug laws (two-thirds of all it spends to fight drug abuse) goes to halt the flow of illicit drugs into our country.

Yet, the drugs keep flowing, even though 13 tons of cocaine and 1,500 tons of marijuana (with a total street value of $11 billion) were seized by federal agents last year. It would seem that when $5 million or $50 million or $500 million worth of drugs is impounded, the total available for distribution would be reduced by a like amount. But that is not the case. Drugs lost through seizure are instantly replaced by producers and importers. The more Federal agents seize at our end of the pipeline, the more drug traffickers feed into the other end. Although interdiction efforts have expanded dramatically and vast quantities of drugs have been seized, the flow to the street has diminished hardly at all, and cost to consumers has actually fallen.

In frustration, Americans have turned their ire on producing nations. Apparently, we feel more comfortable and justified pressuring Colombians, Peruvians and Bolivians to stop producing cocaine than pressuring Americans to stop using it.

In spite of minimal success, we remain committed to battling drugs primarily by reducing supply rather than by reducing demand. Yet, the supply side is obviously harder to hit and to hurt. Producers are beyond our reach. Major dealers are sophisticated, secretive, and ruthless, willing to accept enormous risks and enormous losses as long as profits remain equally enormous.

The demand side, however, is easier to reach. It is vast, barely concealed at all these days, and it consists of the more than 20 million Americans who now regularly use illicit drugs. What's more, the demand side is where all three weapons at our disposal can be deployed -- not only law enforcement, but drug treatment and drug prevention as well.

Our reluctance to attack demand as vigorously as we attack supply reflects nothing less than a failure of will -- not on the part of the administration, law enforcement agencies or drug abuse professionals, but on the part of the American public. Public attitudes and public expectations determine how we go about fighting this war, limit how much we can do and how far we dare go.

What limits drug treatment is not just reduced government support. Even if resources were available, there is no way we could help the great majority of drug abusers in this country to overcome their drug dependency because most of them are not seeking help. They are not seeking help because society does not require them, and the law does not compel them.

Limits on what drug prevention can accomplish reflect what can only be called a public demand for selective prevention -- the prevention of some but not necessarily all drug use. Just about everyone wants to prevent one kind of drug use or another. Most parents believe that kids shouldn't use drugs. Most employers are convinced that workers ought not use them. The public in general would like to see criminals stop using drugs -- and stop stealing in order to buy drugs. But, beyond this point, public demand softens considerably and attitudes become ambivalent.

Nowhere is our ambivalence more evident than in our attitudes towards law enforcement. We are content with a "trickle down" approach -- one that focuses almost exclusively on putting major dealers behind bars. But we learned during the days of strict enforcement in New York State during the 1960's and from recent crackdowns on street dealers in New York City, that the real victories of law enforcement are not the number of dealers or users arrested or convicted but the number motivated to seek treatment. We know that when it becomes too dangerous or too difficult to sell drugs or to buy them, then a great deal of drug use will simply disappear and demand for treatment will rise rapidly to the level of real need.

Lenient or selective enforcement of drug laws -- what amounts to non-enforcement and de facto legalization -- in some areas -- is a reflection of our ambivalence. It comes down to the way that Americans feel personally about drugs -- not only about our own use, but about use by our grown and half-grown children and by our friends, and about what is wrongheadedly called "recreational" use of marijuana and cocaine. While it may make us uncomfortable, most of us do not think of it in the same way as we think about drug use by nine-and ten-year-olds or about the heroin addiction of criminals. And we are generally unwilling to see our friends and children at risk of arrest and prosecution because of drug use.

But I do not believe we can win the war against drugs until we have positive consensus on the strict enforcement of drug laws. However, we need not make that decision any harder than it must be. We don't have to agree that drug users should go to jail. The purpose of drug laws is not punishment -- certainly not when applied to users. These laws serve what must be recognized as a public health function -- a means of controlling a contagious disease by imposing on its carriers the requirement of whatever it takes in the way of education and treatment to overcome their drug use.

We are not likely to see this consensus come soon. Too many drug-using young adults are still convinced they enjoy some special "right" to use illicit drugs and believe they can handle them. Too many Americans are torn between the urge to condemn behavior, of which they disapprove, and the need to tolerate behavior they have somehow come to believe is a matter of individual freedom or simply none of their business.

But both drug users and drug tolerators ignore the contagious nature of drug abuse. The hostess who overlooks a little discreet after-dinner pot-smoking or the professional who pointedly ignores covert coke-sniffing by his or her colleagues must eventually come to realize that a person can no more tolerate a little recreational drug use than he or she can tolerate a little recreational smallpox. As for users, even those convinced that their own drug habits are under control cannot guarantee that the friends, co-workers or teenagers they influence will be able to avoid drug dependency and the other high risks of drug use. Nor is there any basis for them to believe that they will continue to enjoy immunity from the costs of drug use -- if indeed they enjoy it now.

Broad societal disapproval of illicit drug use is needed before we can come to a consensus about strict drug law enforcement. Needless to say, active disapproval and the use of informal social sanctions will make more aggressive law enforcement irrelevant in most cases. The hostess who is certain enough of her own unwillingness to tolerate pot smoking in her home doesn't need to call the cops to keep her guests from lighting up -- no more than she need call them to stop her guests from stealing the silver or spitting in the soup. Nor do professionals who recognize the danger of drug use to their colleagues, need to turn to the law. They have far more effective ways of bringing the behavior of these colleagues into line -- once they accept the need to draw such a line.

In many ways our society resembles the American family in the 1960's. Many parents then believed they were doing their children a favor by laying back and not taking a hard-line stand against drugs. They allowed youngsters to stumble through the drug experience. Only later they came to realize the costs. Those costs ran high, both in chronic impairment and lost educational and career opportunities. As a result, parental attitudes have changed markedly. Parents are now taking the hard line, which is really the loving line, one that shows responsible concern.

More recently, the Navy has demonstrated how to go about attacking drug use on the demand side. While it brought heavy weapons into play -- drug tests and disciplinary actions -- it also effectively reduced widespread tolerance for drug use. By stressing the interdependence of seamen, the Navy began replacing this attitude with a far more responsible one expressed by the motto: "Not on my watch, not on my ship, not in my Navy."

This is the kind of attitudinal change I expect to see occurring throughout the country over the next decade. It is already underway. Adolescents have become far more critical of drug use by their friends, and this is the result not only of better drug education in the schools, but also of more awareness of drug dangers on the street. Employers are now responding to increasing evidence of economic costs directly attributable to drug use in the work force.

So, there is every reason to believe that public attitudes about illicit drugs will become firmer and more responsible. As a result, the limitations on what we have been able to achieve through prevention, through treatment, and through law enforcement, will gradually be removed. They will no longer dictate strategy that prevent us from moving as aggressively against domestic demand as we do against foreign supply.

If law enforcement is to work effectively in cooperation with treatment and with prevention in this attack on the demand side, then we need to adopt consistent goals. While we should certainly persist in interdiction and target major dealers, we cannot focus most of our energy and resources on these high visibility efforts. It is on the street that the final battle is going to be won, and it will be won by constant pressure, over time, that will be felt by every drug dealer and every drug user.

This kind of pressure will not result in any impressive string of convictions, but it will respond directly to the desperate needs of drug-ridden communities. It will strengthen drug-troubled families, and it will improve the quality of life for millions of Americans.

This kind of pressure, supported by a popular mandate, will result in the gradual erosion of the drug market and the gradual decline of drug use. Demand for treatment will grow. Prevention will cease to be selective but reach out broadly across all society. And drug abuse, while it may never entirely disappear, will cease to pose any substantial threat to the nation, its youth.

PREVENTING DRUG ABUSE: WHAT CAN WE DO?

By Dr. Arnold M. Washton

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Dr. Washton is Director of the Addiction Research and Treatment Center, The Regent Hospital, New York, New York; and Research Director of The National Cocaine Hotline "800-COCAINE," Fair Oaks Hospital, Summit, New Jersey.

The most dramatic increase in drug use has occurred since the 1960's, a time of radical change in political and social beliefs, lifestyles and mores. Traditional values, authorities, and restrictions on behavior were vehemently challenged. Psychoactive drugs and the breakdown of traditional taboos against using them became symbols of the rebellion against the established order. We have come to recognize in the 1980's that we are paying a very high price for the casual attitude towards drugs that developed in the 1960's. Much misinformation has been corrected, and we have begun to formulate a more realistic appraisal of the problem, but now we must take specific actions to reduce the demand for drugs.

Interventions that merely condemn drug use and try to frighten children about the potential dangers ("scare tactics") are futile. The most effective prevention strategies are those that address the factors that make drugs attractive and thwart the process that leads youngsters to try them. Children use drugs for many different reasons. Usually there are at least several factors that enter into the decision to experiment or continue with drug use. Drug use itself is no evidence that parents have failed to properly raise their children. Many children with a good family upbringing have yielded to the enormous outside pressures to use drugs. The influence of peers can often override even the best parental input.

Effective drug abuse prevention must address the most basic and fundamental forces that promote drug-taking in our society. These fall into two main categories: supply and demand.

REDUCING SUPPLY

Reducing the supply of illicit drugs is an obvious way of curtailing use. Although this does little to alter the demand for drugs, the widespread availability and abundant supplies of many different types of powerful mood-altering substances makes it easier for our citizens to become involved in drug use. It reinforces the notion that illicit drugs are an expected part of American life. People are more likely to try drugs when they are surrounded by them -- and children are no exception. Most American adolescents know someone who "deals" drugs, uses drugs, or is able to get them.

To counter the supply problem, we must continue to enforce and strengthen our laws against the manufacture, sale, and possession of drugs. We must also take a firmer stand against drug-producing countries that receive American foreign aid.

The failure of Prohibition is a dramatic example of how difficult it is to eliminate the use of a drug by law enforcement efforts alone; especially when the drug is so well-entrenched in society. Nonetheless, to legalize drugs, such as cocaine, marijuana, or heroin would cause nothing short of a national disaster. When drugs are cheaper and more readily available, more people use them, become addicted to them, and suffer serious consequences to their health and functioning. Legalization of drugs would create an epidemic of unprecedented proportions.

Although enforcement efforts are necessary to check abuse, they cannot prevent the problem by themselves. Neither can treatment programs, which are utilized only after a serious drug abuse problem has been identified.

REDUCING DEMAND

Prevention of drug use in the United States must focus intensively on the problem of demand. The cultural forces that encourage and perpetuate drug use in our society must be eliminated. We must recognize that drugs have become a deeply-ingrained part of American life and that prevention cannot occur unless social attitudes toward drug use change. Changing social attitudes toward drugs is a difficult undertaking, but not an impossible one. Many segments of society must become involved in the effort. The message that drug use is unacceptable, unhealthy, and unnecessary must be communicated in a credible and consistent manner by the family, schools, media, business community, medical and legal experts, politicians, professional athletes, and other public figures. This message must be reflected in every aspect of American life including education, entertainment, business management practices, and law enforcement. Being free of drugs must become a highly desirable personal attribute: one that is seen as mandatory for success in our society. One might hope that non-involvement with drugs would become at least as desirable as physical fitness and attractiveness.

Several prevention strategies are outlined below.

RECOMMENDATIONS

1. Public Education and Media Campaigns. The media is potentially one of our most powerful prevention tools. It could be used to better educate the public about the dangers of drugs and to change attitudes about drug use through direct and indirect communications. Public service messages, educational programs, documentaries, and greater efforts to eliminate pro-drug programs, might help to counteract accepting attitudes toward drugs.

2. School-based Prevention Programs. Every school system in the United States must have an active and creative drug abuse prevention program. Prevention efforts, such as saying "NO" to drugs and learning of their potential dangers, must start in the early grades, not just in high school. Studies show that drug use often starts before the 7th grade and that by the time youngsters reach teenage it may be too late to change their attitudes about drugs or their willingness to "try" drugs. Nonetheless, early identification of drug-abusing youngsters and swift efforts to ameliorate the problem are essential in our nation's high schools.

In this regard, the "Student Assistance Program" (SAP) in New York's Westchester County has served as a model program to other school systems around the country. The SAP is based on the EAP (Employee Assistance Program) model used successfully in business and industry, utilizing on-site substance abuse counselors, who are especially skilled at identifying drug-abusing youngsters and providing the necessary assistance or referral.

3. Education of Health Professionals. Despite epidemic levels of drug abuse over the past two decades, most health

professionals receive no formal training in the diagnosis and treatment of drug dependency. This situation must be corrected by mandating that a core curriculum in the clinical management of drug abuse problems be part of the training of physicians, nurses, psychologists, social workers, and other health professionals.

4. Drug Testing in DWI's. Currently, not a single state in the United States requires drug testing of drivers stopped for suspected driving under the influence of alcohol. Someone "stoned" on drugs may be able to pass a breathalyzer test with no difficulty, but still be too impaired to drive safely.

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